

English-Law:

O.R,

A Summary Survey of the Household
of God on Earth; And that both before and under the Law;
And that both of *Moses* and the *Lord Jesus*.

Historically opening the Purity and Apostacy of Believers in
the Successions of Ages, to this present.

Together with an

Essay of Christian Government

Under the Regiment of our Lord and King, the one Immortal,
Invisible, Infinite, Eternal, Universal Prince, the
Prince of Peace, *Emmanuel.*

Isaiah 1.24, 25, 26, 27, 28.

Ab I Will ease me of my enemies, and avenge me of mine Adversaries: I will turn my hand upon thee, and purge thy dross, and take away thy Tinne.

And I will restore thy Judges as at the first, and thy Councillors as at the beginning; afterwards thou shalt be called the City of Righteousness, the faithful City.

Zion shall be redeemed with Judgement, they that return of her with Righteousness.

The destruction of the Transgressors and of the sinners shall be together, and they that forsake the Lord shall be consumed.

Isai. 2. 3. *Come ye, let us go up to the Mountain of the Lord, &c.*

and 5. *Come, let us walk in the light of the Lord.*



London, Printed by *Robert White* for *T. G. and Francis Tyton*, and are to be
sold at the Three Daggers near the Inner-Temple-Gate. 1651.

12... 1327

Page 12 of Volume 1327
No 12 of the Double Impression Series
Published by the
University of California Press



To the Family of God over the whole Earth ; but
more especially to them of the Household of Faith
in the Commonwealth of *England*.

AL L who hold the Christian Faith, do beleeve that as the world had a beginning, and was a created substance ; so it shall perish and come to an end (or be changed;) we seem not only to be on the last foot of time in this our Generation, but having stood 1650. years upon it, we have many thoughts of heart-longings for the glorious appearing of the Son of God ; Many expect him visibly to raign here on Earth in person, and that he shall be glorified even where he was crucified : Others look for a Kingdome of Righteousness, a wonderful light of Truth to be manifested, glorious out-breaking glympses and appearances of the infinite wisdom, the brightness and evidence of which shall scatter all those clouds, and disspell all those Exhalations which have mis-led us in the walkings of Christianity, the false Prophets, Clouds without rain, and Fires without heat, which have appeared amongst us : A people in this Nation hath had as great testimonies of this as any people extant on the Earth. The Power of the Almighty hath visibly appeared here these many years, scattering of Truths, and revealing hard sayings, and giving to understand things that were hid for many Generations, though according to the wisdom of the Father he hath dispensed divers gifts, and that there is much of controversie among us; yet if all be really for Christ, and the increase of his Kingdom, what matters it ? Let but all this move and incourage each in his place faithfully to labour in the Vineyard of the Lord. The Master is expected ; how he will come, lets not wrangle about, nor with whom : Let's all high and low, as we profess to expect his coming, so prepare for it : Assuredly he will then come to us in his glory, or take us to his glory : Therefore all you that in sincerity profess Christianity, rowze up your selves, listen to the call of the Lord ; He hath call'd afar off in *Germany*, he hath call'd at home, both here and in *England* and *Scotland* : hear his voyce, prepare to meet the Lord your glory. Hitherto Christians have been the shame of Christianity, and Gospellers the scandal of the Gospel. There was a fatall and general Apostacy falle upon her who called her self the Spouse of Christ, she as *Abelah* & *Abolabah* played the Harlot; and though she here with us in *England* promised to return, yet she kept her Darlings still ; if she parted with the *Assyrian*

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Adulterer, she kept the *Syrian*; God will have no mixture with Idols: *England* hath long desired a thorow Reformation: Let no man boggle at the work if another desires more then as some of you did 20. or 30. years since: why may not God have revealed this to him, and closed thine eyes now, as well as he revealed his will formerly to thee, and shut the eyes of others. Heretofore God put mean men only upon the work, here and there one; now he hath put many and great men upon the work; and what ever spurs they have; yet Christian, if they drive on Gods design, lay thy hand on thy mouth, and only admire how God brings things to pass what he intends.

Some men are so rational, they can see nothing of providence; reason devotrs Religion, and they are afraid lest they should happily find, or be found of God in a way they expected not; they wholly trust to reason, and will see and feel, or they will not beleeve.

Others are meerly sensual, and in the muddiness of their temper follow sense only, because reason is so various; as many opinions as men even in things not above us; This is the main *basis* of Atheisme; shun this *Scylla* and that *Charybdis*, and understand, All Gods wayes are not only prudential, but providential, and God assuredly speaks both ways: He that impeaches providence to Lust, Error, and Transgression against the evident revealed will of God, is like him that because he hears of Election, sins at liberty, which is a mark of Rejection; He that in doubtful things in freights for God, his glory, his Truth and Laws, the purity of Righteousness, in simplicity eyes God with constant and fervent prayers, walking humbly and watchfully over himself, and all that partake with him, spying what leads and misleads, and searching all interests, casts all away all but that of the Lord and his Righteousness: Surely he is like him that hearing of Election, and not knowing who it is, yet beleeving not only the truth of it, but blessings appertaining to it, faith, I will seek if happily I may find, I will knock because of the promise; and such are assured to enter life eternal.

Now all you that have in your eye the expectation of the glorious appearance of the Lord Christ in your several stations, Parliament, Princes and Nobles, Army, Judges, Officers, Magistrates, Rich men, Citizens, high and low, Rich and poor, one with another, despise not my weakness, inability, unworthiness; eye not my life past or present, but look to what I say, and as you find it bearing the mark and character of fervent truth, accept it; if you doubt, labor satisfaction privately; if you spy an error, rebuke or inform me with Christian wisdom and sobriety (my zeal for Gods cause, not self-confidence, hath put me forth to the work) and I shall willingly learn, and bless God that makes me know his will, yea though by my failings, so it may work to the encrease of his glory, and propagation of truth. *Amen*, So be it.

And first give me leave to speak a word to you that have at present the Supremacy of Power, lay to heart these things: First, that you are in Gods stead; Next that there are many vows upon the Nation for Justice and Righteousness, against the then, and still continued unchristian, uncivil, nay inhumane dealings of man with man, as man with God, &c. You stand in the eys of all, all your goings are marked, and all your failings graven to Record: Publick necessities, your own consciences and ~~and now having left it~~ ~~and now having left it~~ peoples

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peoples complaints, have plucked forth Declarations to men, as well as Covenants to God; the Obligations to men are still the same, if the reason be the same: And for our Obligations wherein we lift up our hands to the most high God, truly though the Covenant (as is said) be out of date, that is the end of the Covenant for satisfaction to the King, to draw him to an union and conjunction with his great Council, be disengaged; yet the seeking of the settling of this Nation, the three Nations, all Nations, according to the Rule of Righteousness in love, peace, and unity, yea the drawing of them to uniformity, both in Doctrine and Discipline according to the Word of God (that is, by the evidence of truth and the manifestation of the Spirit) is still the duty of all Christians; for this had been a duty, had the Covenant never have been; it was before it, and must remain after.

The present Age is in the learned part very acute, at least to censure all persons, and then assuredly the actions of Enemies. You have many who foment jealousies from the supposed Errings and delays, some to one end, some to another, but all of believeng the old experimeted Rule of the destructiveness of popular Government from the variety and inconstancy, the dilatoriness and ambiguousness of their proceedings, and unsatisfidness of so many selfish Interests as are among them; this is to bring in the Government of a King again; Indeed multitude of occasions makes your proceedings slow-paced. Instead of particular Acts which are unsatisfactory, settle a compleat body of Government, you have means of supplying all indigencies; for if you improve your power to evident publick good, who will oppose? The Royalist and all among the Parliament party agree in many just things, yet unexecuted: Justice is the preservation as foundation of the Throne. If you will reign safely, walk not in any of the wayes of them that fell before you; the president of their punishment, as their error is too nigh at hand: Let no interest deterr you from your Rule: Conserve indeed the real Liberties of the people, free us from all those Legerdemains, the sleights of Oppression and Tyranny: What was unjust gain in the King, let not the State demand there; depend upon, & follow providence as far as you will, and be as remiss and so called merciful as you please; but in things just and evidently conduced to common good be severe and unalterable; this is righteous: In things difficult and doubtful, first use reason and prudence, discover the interest opposing, and so proceed to afflict; this wil breed both fear and love: Alter a good and just thing, though to a more just, by degrees, and gently; for interests have here lawful pleas; but in evidently evil, it's the glory to make speed: Connive not there for an hour. What is here driven at, is the just Reformation of all our Laws, the Reduction of them to a Rule and standard of Christian Simplicity. You that are of the long Robe, both in and out of the house, yop whose knowledge both divine and humane abounds, as your abilities in outward as inward excellencies, Judges, Councillors and Officers of all sorts, look not at ancient Customes, but at the common Justice of them; not how they restrain particular evils, but as they conduce to universal good. If you will not admit the opposition of inferiors, do nothing but carrying that evidence of reason, as may stop the mouths of fools, as well as satifice wise men: Let Godliness now in this light be

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the pretious gain; its the Pearl of great price: Surely there are things called Law, admitted practically for Law, and those opposed and complained of, which are so notoriously unjust and irrational, so destructive to the Nation, as its the admiration of all men they are not amended; 'tis laid only to the charge as (a matter of Interest) to be obstructors; see in the day the Lord opposing every evil thing; lay down Self, and God will stablish you. To you Princes and Nobles, I say, learn by Gods dealings with you, to see Thrones, and Scepters, Powers Civil and Military, Riches and Honors, Wisdom and all, are the gifts of the Almighty Wisdom: The Hand of Providence holds them forth, and dispoileth them as it pleaseth: You have been bad Stewardes, amend your wayes; God hath here and there taken all away, otherwhere a great part, most have suffered: know God is able yet to take away the remainder: seek not therefore in passion to break out; what everyou do carry God along with you, and that not in thought but deed; assuredly the judgement else will be more smart, and deeper in every change, lets see the Work of God upon your hearts: change Profession into Practise of Christianity; idolize not the Form, but acting sincerely Zeal, Holiness, Austerity of Life in the avoiding the very appearances of evil, but exemplary in Charity, and that not onely in giving much, but giving well; ordering the wayes not of your selves onely, but of your Families, so that the nobility of your souls in the excellency of graces may speak you illustrious above ancient riches, the Vertues or Vices of your Progenitors. The same I may say to the Gentry, and men of great estate, City and Country; know God gives you much that you may do much for him; wherein is now your excellency? Titles! Alas they are but like Absoloms Pillar, serve but to eternize his faults and miserie. Good cloathes, large Retinue (as Revenew, if not larger) and they generally idle, and so necessarily vicious; Coaches and horses, bountiful and luxurious fare, as much spent to feed and cloath ten, as well would satisfie each day one hundred: and for one hundred, as would plentifully maintain a thousand: Is God honored in all this, or is the poor profited? you may think it; for thus did your fathers, and so did you; but where is the Rule? the charges of the Commonwealth, if but five shillings, are a burthen to you, who spend ten pound, nay a hundred pound, nay a thousand pound in waste; and they that have nought, follow your example, thereby believing they gain credit.

I now shall speak one word to the Army; You have followed Providence, make no Selfish Interest your Idol, lest Providence forsake you; be assured, others have many enemies; but for you, how few are your friends? there are great engagements upon you to God, who hath with such a continued course given success to your undertakings: I am so far from encouraging to Mutinies as I condemn them; there are just wayes; use them; I would draw all the world by the Clew of evident Reason and demonstrative Justice, much more Authorities; and when my reason could not prevail, I would at utmost lift up my voyce in prayer, with one hand and my heart, and hold my sword in the other for my defence. All that I say, is, be Englishmen still, war us not into slavery whom you were made soldiery to redeem from bondage; but especially you Officers, let not promotion cause you sit still because at ease.

I cannot

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I cannot but give out one word of advice to the great and eminent City of this Nation ; you were sensible of evils past , pride made you fat and you kicked with the heel : Though the greatness of Trade be broken, repine not ; break not out, there is more lost in a day then can be gotten in a year ; vex not Strangers from your Potency, nor Citizens by your Power : Petition not against Will instead of Law in others, and use far more irregularity , and upon less ground your selves : you heretofore gained the whole trading of the Nation into your company ; we are all English men, shew us your Charter of Priviledge amongst the immunities of common Subjects: will you admit that a particular Company in your City should of the Grant of the King have a priviledge to the detriment of your general Charter ? why should you then to the dammages of the whole Nation ? Agree therefore to just things ; give God the glory to part with quietly from the convictions of just Reason, what you might happily hold, either by Law or Power from your Grants, if the Grant be now evil, though not originally so ; for Reason making things lawful, and being the bounds of Supream Monarchs in general, it cannot be excluded their particular Grants : I know this will grate hard upon some among you ; but if Christians, they will hear ; it were better to be less rich, and less populous, so more honest and better regulated : you are at present, yea after so long fitting under the Sword of the Vengeance of the Lord, the sinke of abominable open prevailing sins : you that should be the Head to the Body, and the Eye to the Head in the greatness of Blessings, going before others, and being a Pattern, and Example to all the rest as a Mother City, as you have been stiled in the Nation ; you are not active for that glorious Regiment of divine Reason, which as Christian, is held forth to us in the Old and New Testament of our Lord and Saviour, the Lord Christ Jesus : you labour not in what is established by Law : then sure it can be little expected that you should endeavor the Settlement of more : it is a work of difficulty; the opposition of the world will be ; but the world is overcome, and this gives hopes of Conquest, when we fight an Enemy that hath been beaten ; its the course of the world to plead Presidents, and then the highest are the best : you are able, do the work ; you have done much in settling a Magistracie in Chief ; set to the design; this is of interest publike ; but cease not here ; fit them to the general end of Government as well as to the particular one of Opinion : Its the way of all Corporations ; this may not be evil in Politicks, but there is a better in States, much more in Christianity.

And from you I pass to all Cities and Corporations ; You have evils every day which need remedy : you spy errors in your Charters, whereby you see you are no way able to act for publike benefit : endeavour the Settlement by due consideration of just laws : present them, as is due, to the Supream Magistrate; let them settle the due priviledges, and so enable by a standing Law the Rule of your Christian Government in a social frame : Emulation may be hereby a spur to excellency of Order, while the improving the same priviledges, more or less, will evidence the excellency of men, which particular honor is the Bellows

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to blow up the spark of outward Vertue to a flame in a zealous or ambitious spirit.

And you rich men, and men of parts in all places, improve your Talents, hold forth the Light God imparts to you for the healing of this languishing Nation. The poor increase so vastly, through continued and unrepaired losses at Sea, and from the deadness of trading at Land, that unless some course be taken, all must to wrack; besides the mercilesnes of Wretches, who sell the poor for a pair of Shooes; some by forging Judgements, and making folks to compound; some under colour of Warrants, breaking open of houses, being Bayliffs, and that at midnight; and then by the Justice, its said Justices of the Peace, let go with onely restoring the goods again, and this since acted in several places, they passing unpunished: otherwhere, a Bailiff upon a Judgement of one hundred and eight pound, upon a debt of forty pound, out of the Common Pleas, (whereby ten pound sixteen shillings is due to one Officer for one Fee as dammage clear out of their estate, who are not worth one farthing) comes and makes seizure of a whole Shop of goods, worth by estimation above two hundred pounds in Grocery, and other small wares of Silk, Buttons, Lace, Ribbons, Linnen, and Woollen cloath, &c. besides all the Housholdstuff, not leaving a bed to lie on, or stool to sit on; and these are (by whole Sale as they say) without any Inventory, or due appraisal, carryed away, and yet no Judgement satisfied, that is, not fully; forry six pounds is all can be made out of these goods; Men constantly Arrested onely to force them to compound; for stand out a Suit, they are undone; yet who becomes careful to give or crave relief in these matters? Thus the poor and miserable people are daily utterly undone from Forms of Law, and the priviledge is in the Form. O Englishmen! deceive not your selves and others with shadows: These (so, (more then) evident) errings, wandrings, failings, and unreasonable, unjust procedures of so called (and proud of (as striving for the) name of best, purest, holiest, &c.) Christians, are the gaps and inlets to all those strange unheard of Opinions, those Blasphemous and unnatural bestial actions, and audacious Printings, which there is such a stir withal in the world: lay ought to their charge, they recriminate, and bespatter foully, and soyl hangs: For the letter of the Scripture, if Christians plead that they are gone, it is as killing under the Gospel as the Law; for the letter of Scripture, and the lives of Christians, are as different as life and death, hell and heaven: This in contemplative heads, convinced of duty, works high, and assuredly brings forth all those Enthusiastick Rapsodies which so amaze the world; these urge them by degrees to greater heights of so called zeal for Gods Truth, and then after a Prophetick strain, they utter things hard to be understood.

I cannot see any ground why any should be led away after them, nor give any credit to their sayings; No, I rather believe it to be the malice of the enemy, subtil to deceive; they generally drive at two things, Community, and Parity; the one against the Tyranny and Oppression, &c. of great men in power; the other against the covetize, selfishnes, luxuriousnes, &c. of rich men.

Now

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Now these things, O you great and rich men, do most assuredly, as you rightly conceive, tend to mutiny, to nourish feuds and envyings betwixt the multitude and you. All that I say, is, remedy not these evils by worse; you know what Beast you have to deal with; its of such stomach and force, that Prudence must have the honour of the management; if you subdue, know its but by a part of the Beast (you must admit the Allusion) and what in the winding up hath been the issue of these things, the *Pretorians at Rome*, the *Mamelucks in Egypt*, and others now testifie.

Consider therefore what you have to do; God hath set all these as signs and tokens to you; if you fall, the evil is of your selves, your improvidencies, lightnesses, and instabilities; your odd and uncertain followings of providences, evidence your fears, those your doubts, those the error of your principle; all things work contrary. O that every interest now could lay it self down at the foot of Jesus, and say, I part with all for thee, and then take up all it hath as from him, and of his gift, and be ready to part with it to morrow: Should we then live as we do now? How many would then give to the poor to day, lest they should have nothing to give to morrow? How would they then not delight in luxurious Apparel, Householdstuff, &c. wherein multitudes of riches lie dead and buried, lest another should enjoy them to morrow?

I know this to some melancholy spirit may give occasion to think I aim at, or give too great footing to Community and Parity; for they should in such contemplations cast away all; but I speak to the settled Christian, who knows its lawful to use the world, but all in due order; and as its lawful to recreate, but spend more time in prayer, then in playing; so its lawful to rejoice in (and to have that we may rejoice in) outward blessings, but glorifie God with a greater portion to the poor then thy superfluity amounts to.

I intend a due and just reproof to excess and prodigality; Keep not all horses and doggs, some poor; not all in cloathing thy self, some to the naked, and thy self with moderacy; and yet if thou dost these things, thou meritest not Heaven, but thou avoidest the scandal of men.

Now that this is not done, is the fault of the Magistrate: O Watchman! its thy duty, but thou settest up for favor and by-respect, lazie, idle, and ignorant, and some evil Watchmen; therefore the work is not done; and that thou mightest trust these, thou madest thy Law to extend to each matter, or so intendest: and this was for two reasons; one that fools, or any might not err, for the Letter was their guide; the other, that they that would abuse their power, might not; and by this, not having each week a new Law, as occasion grew, Justice and Government is lost; for act by these particular Laws who can, in one hundred thousand things justly requiring remedy? The poor are thus sold for less then a pair of old shooes. If you would give a remedy to this, authorize some few, or many, who shall examine and determine all actions by, or against any person not worth an hundred pounds; for no Tryal

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can be under twelve pound, and the eighth part of all a man hath indeed of the thing in controversie to be spent in trial of whether my horse be mine or thine, my knife, nay the sheath of that knife, is a woful thing in a Christian Commonwealth: I shall not declaim against it, but onely say, its contrary to the worst of Heathens proceedings: I intend not to make the wound wider, while I desire healing; the difficulty seems to be onely to perswade men this is a wound: I have been as lenyitive and gentle in opening this Orifice of the ulcer of the Law and its practise as may be: I acknowledge it my Profession, not my Practise; and I account this according to the Head Rule of Englands Law, rather the Practise then the Principle, the error of Custom and interest from men, then of the Law; I hold forth nothing for Law which is treated of in the Laws of England, but according to the general rule of that Law, holding nothing contrary to the Law of God or just reason to be its Rule; all which I am ready to all, or any particular, to manifest when ever called thereto.

And now I come to speak one word to the people; You are of many sorts, and many interests you have; but as I find the worst and wickedest, as educated, professing Christianity, I advise you first to labour as such, to approve your selves: you have, its probable, been most of you Baptized; the Covenant is indelible after once you have (I say not been Re-baptized, or Baptized with the Spirit) but owned that Covenant, in the name Baptism; you are a debtor to the Lord Christ of all the duties of the Gospel.

This then, O poor Christian, goes far; its the Magistrates duty to rule well; so 'tis thine to obey well: 'Tis the same with you as with the people in Christs time, when the great and powerful men speak the Law, and hold forth duties of Righteousness; do as they say, however they do; Its the Magistrates duty to hear and receive in a right way just things from you; and by the implicate Reason of power onely to vote them unreasonable and scandalous, is unsatisfactory; but if they do so, remain you in your integrity; break not out against them, untill the Lord shall open a way, he will do it in his due time; go on and satisfie thy soul in thy own righteousness, I say so, Comfort thy self in the mercy of thy God, who hath given thee to see others failings; and though thy condition be poor and needy, yet break not out: This I say of this great scarcity which hath fallen upon us, wherein I believe many have perished, yet the evil hath light on the rude, stubborn, disordered poor, against whom mens bowels have been shut up; walk therefore according to the condition wherein God hath set you; exalt not your selves against great men, no nor against rich men, they will be too mighty for you; poor and proud is a high judgement, it brings misery with rejoicing. I know many of your souls die within you, when you see the wicked full, their eyes stare with fat; you wait upon God, and your children famish: yea many hence think God regardless, so unjust at first, at last deny him. Fools, know 'tis his Wisdom, he punishes or tries, or both; he punishes the body in the want of temporals for breaches of duty to thy brother, neglecting the creature, or abusing it, and the

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the Creator in it : He tries thee for his glory ; was he unjust in his dealings with *Job* ? then note that poverty is no shame, Christ hath sanctified it ; no nor death, no not on the Cross , if as Christ the Captain of our salvation, thou beest made perfect through sufferings ; not so, if thou blasphemest, &c.

And now one word to the Teachers of the people ; Take heed to your selves, lest while you preach to others, your selves become not castaways : Some of you call your selves still the Clergy, I pray evidence by what special right or title : next you claim special Ordination, pray agree to what end ; we are jealous of a many among you that would ingross all knowledge of the Gospel by as gainful a Trade as others did and do the Law ; Briefly thus, If you have an infallible Word, shew it ; if but a humane, and that that be attainable meerly or more especially by Learning, and that by disquisition knowledge shal encrease, then shew how parts and graces are distinguishable, and whether you wil quench the spirit altogether, or allow it altogether, or what or how, tel me why a brother, a member of the congregation, by them approved, may not improve his Talent to the edifying of his Brethren, as well as a Bachelor of Art, or Master before ordained as you call it, Common Place as you call it, and that often more forily then an honest Bibling brother that never came at the Colledges, though at the Schools of the Prophets.

I cannot disallow Pastoral designation, and so in order from Pastoral or Teaching abilities; but to rest in designation any more then in ordination is incongruous ; I know this opens a gap to fears of maintenance, but I see none justly ; I pray God your standing off open not wider ones. If you be not the chief, you are none; what is the cause of your contest ? I profess, I am not prejudiced against any person, I have been inquisitive into intendments, and I judge the tree by the Fruit; may not man do so ? is it not consonant to reason ? When do you leave your Parishes generally but to get better, greater Livings ? you have made the notions of the Religious a call from one people, and assent of the other call but stakes to your additional maintenance.

I agree maintenance necessary, but I dare not boggle with the things of God ; speak right out, eight score, be it so, is but sufficient by the year to maintain any Family , and till I come at that, I will not hold me to any call ; you dare not do it ; abuse not your selves, many see it ; say not else you can have so much in another place. This is the beautiful Harlot; your hot and eager disputes are the Alarms to our continued feuds (I cannot speak this to all, for there are some who imitate as much as this Age will permit, the example of Christ their Master ; and what ever their opinions be in Politicks, they submit to the Powers for conscience sake, and what ever they may think, they unrake not the coales of dissention, much less will they blow them to a flame,) here are all our griefs, here is one wound so long kept open, hereby is all obedience in all degrees lost and extinct, no respect of Magistrate in any degree ; the truth is, the unfitness of some Magistrates, in not having abilities, and of others in misimproving them, and so of Ministers, hath heightened by a just judgement the evil of contempt on all fides ; the retaining, and so

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eager seeking unwarrantable interests will make the Callings I fear suffer by bringing all into question ; my reason is, This hath been Gods way here now and before : As all things necessary to salvation, are (through the goodness of God) plain and evident ; so all things necessary to righteous Government ; what Magistrates stumble at, is the perversenes of people in pursuing unjust ends to or against their fellow-brother, but especially in cutting short or tying him up too strictly in the requisites of honour, order, and maintenance, and that for the Publick. The people stumble at the Magistrates evil using, and greatly abusing his Trust and power to self-interests, professing for the publick, but intending and visibly bettering self. Its a received Rule, *The disease is more then half cured, if the true reason be known.*

O you Magistrates and Law-givers, you have the first part to act, be you righteous ; evil and disordered people are the manifest tokens of a loose negligent Magistracy. Its evidently easie to settle a Nation more numerous, more disordered from ignorance and will, then this is ; in the time we are discoursing how far the Magistrates power extends in Religious things, or in a Politick consideration what shall be done when the Nation is settled, before the settlement be made or agreed upon ; let's not to avoid the evils of the worst of Levelling so called, give advantages to their designs or proposals : Let's walk, so that we may by reason as well as power maintain our proceedings ; before we undertake, lets resolve to prosecute or surcease upon evident and publick reason ; the want of this hath disobliged more then ever the Covenant or Engagement bound. And as I begun with you in Supream Power, Civil, or Military, or both, so give me leave to end ; when you first engaged, when first you began this great work of Religion and Publick Liberty, how hot and spirituous were you, when great oppositions and many designs were on foot ? how watchful, when you were running for the Goale and striving for the Mastery, yea, as your selves said, venturing for your own Lives and Liberties ? how regardless of bare forms ? how then could you look at publick good in the nighest safest way ? you could then lay out your way besides the common Road without the formality of suing out an *Ad quod damnum* ; yea what strength of reason could not untye, the Sword did cut : Thus are the burthens, snares and vexations of truly religious people gone as to the conscience : Thus far you have been sincere in your Obligations to God; be also as faithful in your Trusts to the Nation. I would not have Judges taken away, root and branch ; Judges are found in Holy Writ, yea such in power and Authority as we desire to have ; we desire Justice should flow like streams, and Righteousness like mighty waters ; the want of this impoverishes the Nation ; I am in such place, that I see and know it, yea I beleieve, let it be rightly scanned, it will appear most costly, more ruinous, and more enslaving then two such Armies ; and as now practised, more intolerable then an universal Toleration so often charged upon you.

Now the Lord God of hearts lay what is written to all your hearts, and grant that you may go on as you have promised, namely, according to the great Trust that is upon you from the people, you proceed in procuring

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curing common good, (which is the true and ultimate end of all just Government) and by a right aim at that, direct all your actions, and not cease to improve your best judgements, and lay out your most un-wearied labours, notwithstanding all discouragements, either from malice, envy, danger, or any other cause whatsoever, to promote the same, so far, and so fast, as the subject matter will bear; and assuredly the blessings of Heaven will attend and follow you and your Councils; otherwise be assured, when God hath made use of you for a while, the Lord will cast you away, as others before you, and your place shall no more be found: for the averting of which judgement, and settling this Nation and the Government of quiet and peace upon the foundation of Truth and Righteousness, is the prayer of

Him that zealously and faithfully endeavors

and prays for the peace and happiness

of the Commonwealth,

CHARLS GEORGE COCK.



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A

S V R V E Y

Of the Houſhould of God on Earth, &c.



He Lord God for his own glory, and the accomplishment of his determinate Councils, made the world, and every living thing, whether Angels, or men, in heaven or in earth; which perfected, The Almighty wiſdome, though it could have otherwaies glory-fied it ſelf, thought fit among all the Creatures which his hands had made, to raise man to that pitch of honor, as to make him not only the object of his love, but in ſome ſort the Author of his honor, (who is the fountain it ſelf or original ſpring of honor and all other virtues and excellencies) and this he himſelf acknowledges, by ſeveral expreſſions of his own, and Prophets, when men have yielded obedience to his Com-mandments, ſaying they honored him, or gave glory to him. Yea indeed it will be acknowledged of all ſorts of men, that the end of mans Creation was (as is the work of every Artiſcer) the glory and honor of the Creator, and maker; Therefore the ſame wiſdom that Created man, even while man was yet ſimple and pure, in the abſolute height of his firſt created perfection, put him under the obedience of a Law and Rule in word, to the keeping of which those firſt principles which we call the Laws of ſenſe, and reaſon, were but ſubſervient. But man kept not long that ſtation; but diſobeyed the law of his moſt high Creator, by which error or fall its concluded and agreed, by all Christians, that the whole nature of man was corrupted and tainted, and from being the ſons of God in pure creation, all mankind became the ſons of *Adam* by natural propagation; bearing in our bodies the ſting and marks of our firſt ſin, in our daily and continued transgressions, thrust out from the preſence of our God, and could dwelſt no longer in paradise. And now the Laws of ſenſe and reaſon were mans rule, God not holding that lively communion with man, which he did before, to preſcribe him particular and poſitive Commands, or Laws; (at leaſt that we read of.) Yet the goodness of our Creator, tranſcen-dently appeared, in that while he breathes forth threatnings to his diſobedient ſervant, nay ac-tually puniſhes him, in eje-cting him the earthly Paradise, the Type of the heavenly Reſt, he opens a door of comfort, in ſo ſweet promiſes as he there annexed, of the hopes of a Saviour; under which Covenan-t he ple-aſed in all ages to take a ſpecial regard to ſome men, in and by whom the family and houſhould of God was continued; and to theſe he ſeveral times, and by ſeveral manners revealed himſelf (whether by Dreams, Visions, Angels, or otherwiſe, is not ſo materiall to be here diſcuſt) and taught them the Laws and Ordinances of his house, which Laws we ſee were not ſo contrary to the Law of pure Reaſon or the inherent law of na-ture, that they wrought diſi-ſion, or ſeparation either amongſt themſelves, or with others, or ſo perſpicuous to the eye of mans reaſon, that each wanderer ſaw the wiſdom of the Father, and imme-diately followed that rule and di-ſtict of the di-ſe-ſive ſpirit; of which families or houſhoulds it is con-ceived the Lord had ſeveral in diuers Countries at the ſame time; but as being leaſt queſtio-nable,

nable, most proper to a Christian, and so most subservient to our end, we shall only look at the direct line of scriptural genealogy, from *Adam* to *Noah*, and so to *Abraham*, of whose posterity in the twelve Patriarchs, was found the people of God, the holy seed, among whom were (in his due time) shewn the Oracles of God, the depth of wisdom, both for the government of Gods people as men, or Saints, by the Lords annointed, and every inferior power under the civill Scepter : or by the royll Priesthood or inferior *Levite* under the Divine declaration. How far *Adams* power extended, or how absolute it was, I shall not controvert, nor yet *Noahs* ; but this we may see, that it was so paternal, that we read not of any censure that he gave to *Cain* upon his brothers murther; though we see God did ; but how it was effected, whether only by the voice of conscience, or otherwais, is so difficult that we will not gues, but conclude, had the knowledge of it been material, either for Gods honor or our good, the holy and wise God would not have so obscured it ; nor yet gives God a precept against murder, but gives it *Noah* after the Flood. That it was want of absolute power afterwards, that brought such looseness, and disorders upon the world whereby sin in the successions of generations, from *Adam* to *Noah*, was so multiplyed, the contrary seems evident, and that from the Tenor of Gods truth : For there were mighty men, who abused their power to wrong and injustice, therefore were they plagued ; we may say plainly, they sought and got power over each other, and destroyed the pure law of nature : For (though I am not against, nay I am for Government, as will well appear hereafter, yet) this I say, that the law of pure naturals sets not one above another, which law observed, there would be no need of Governors, for each one would be a law unto himself. But to return, the power thus obtained, they abused it to unjust ends, Spoile, Robbery, Rapine, Lust, and such like ; for this came the wrath of God upon these children of disobedience and violence ; and the Flood washed away them and their sins together. Yet the Lord remembred *Noah*, for was he just, from whose posterity descended all the present Inhabitants of the earth ; and although the fathers were, as *Shem* and *Japhet*, righteous in their generations ; yet the sons and progenie of these, forgat the laws of their fathers house, and fell into the delusions of *Sathan*, by the lusts of their own hearts ; And forgetting the Judgements of God upon the old world, they as well as the seed of *Cham*, fell into the sins of the old world, and promoted themselves over their brethren, not according to priority of birth, as most congruous to reason, but by might and power, abusing those excellent qualifications of divine infusion, against the law of the most High, and then according to their factions, they by strength got dominion, which loth to lose, they combined together against God himself ; nay as sure as the Lord liveth, the Poet truly expresseth the heart of man, These Giants or *Principes* would if they could, have plucked God out of heaven ; they first brake his Laws, and then fought against him ; but the Almighty now only scatters them to his glory ; and they who before were bounded in a narrow compas, are now dispersed through all regions, and it is concluded that the chief of them of one language, upon the confusion of tongues was their Prince, but whether that were the most Ancient, Strong, or Wise, we shall not need here dispute ; it is agreed there was a cheif, and that the most ancient, by the general Law of reason, owned that place. However it is most probable that their dominion extended not over many, or that their power was unlimited : But it seemeth among the sons of *Noah*, that *Chams* posterity first deviated from the rule of nature, in *Nimred*, who notwithstanding he had elder brothers, yet took the power of government upon him ; yet its conceived he went no further then the government of his own family, the heads of families appearing in the same age with him in the offspring both of *Shem* and *Japhet* ; and tis not probable that in those times the government was most such ; for they might have enough in one family for one man well to govern, considering the many hundreds of years those ancients lived, and the mind of man might well then be contented with it ; the profit was care, and the honor duty, and the end only safety against brutish invasion, which course is as most natural, so most conjectural, untill the contrary be proved. And most assuredly as their families increased, even after the dispersion, so divided they the land as well as in the dayes of *Peleg* ; and though it may be conceived that in this dispersion and confusion of languages, the seed or occasion of future Discords, Wars, Jars, and such like was sown, yet it is probable that the earth in the fulness thereof being before them, and the remembrance of kindred being fresh, they

they did not immediately break out into blood, by forcing a disseising, or putting them out of possessions who were in ; but those unprovided sought out habitations, and their numbers in their respective progresses increasing, they sent out what we call Colonies : The chief leader or Colonel of which, was, as is most likely, the most Ancient, who also gave forth to them the general law of their fathers, whether traditional or otherwaies ; and the next in degree of age, as the fathers of many children were accounted as chiefs, next that cheif, or King, and these by Scripture according to that phrase in the time of *Moses* writing (when now the world was grown to some settlement in disordered order) were called Princes; But these soon wax out the remembrance of their neerness of blood (for surely where God was not regarded, man was neglected) forgetting God and his Law, and private interest increasing, the issue was divisions, Wars and Jars. The just might separate and divide, as did holy *Abraham*, and just *Lot* ; but the wicked fought for it, and by power obtained their will, and that law or liberty of blood letting once admitted, there was no stint of strife, they renewed the Wars as the season of the year gave opportunity, and with this strife out of all question came in (against the law of nature) the servitude of man to man, and therewith also a confusion of families, as to pure dissent. But let us pass on and hast, the Lord makes now his family in the houshold of *Abraham*, by especiall Covenant of promise with him and his seed, rejecting all other Nations ; Yet how that rejection wrought, is difficult : for *Melchizedech*, *Abrahams* contemporary was a holy man, and assuredly kept purely the law of his fathers, supposed of *Shem*, though living amongst the accursed Cananites; so *Pharoah* King of *Egypt*, to whom the Lord communicated his error in taking *Abrahams* wife, and more especially *Abymelech* King of *Gerar*, who apprehensive of Gods indignation, for the same thing, prayeth as one, and that not only of himself, but as of a Nation that knew and kept the Covenant of the Lord, Wilt thou also destroy a righteous Nation, said he not she is my sister ? But to proceed ; This *Abraham* is called a mighty Prince, yet Arms but three hundred and eighteen, this confirms what was before asserted, shewing what Kings and Princes then were, for these were to fight four Kings, and manifestly proves the generality to be but heads of families (though the *Assyrian* had now conquered many families) mark also *Abrahams* complaint for lack of an heir, yrging his power and estate to descend to *Eleazar* his chief servant ; These things are inserted only to lead the weak reader in a plain path way of historiall narration, therefore this one example might suffice, but this must be more then seconded, both in *Isaac* the child of promise, and *Jacob* and his progeny ; *Isaac* was *Abrahams* heir both of goods and graces, yet falls into the offence of *Abraham* his father, and for safeguard of his life denieth his wife ; And as a King governing his family ; hath issue *Esau* and *Jacob* Twins, and although the birth right of divine blessing is by *Isaac* given to *Jacob*, yet the temporall inheritance was to *Esau*, which primogeniture is several waies ; and in the right of it acknowledged to *Esau*, by *Jacob*, whose substance was the gift of his God in, and for his faithfull service he performed to *Laban*. But lets hast to see *Jacob* in his full grown family, descended into *Egypt*, and there continued the time appointed by Gods promise, during whose servitude, while the yoke of *Pharoah* gauled the necks of his offspring, (the way which God used to perform and fulfill his promise of freedom, tis strange to flesh and blood) you can look for no other government upon their shoulders then the whips of the Taskmasters, untill the time of deliverance from the Lord comes, who raiseth up *Moses* to be their favourer and leader ; but the judgements of his mouth during the whole course of his government, were for the greatest part extraordinary, even from the mouth, or Spirit of the most high God, which although it sheweth how nigh a relation holines and obedience can work betwixt man and God, yet so far it sheweth not ought as exemplary to us in our present Magistracy, either the superior or subordinate, in ordinary jurisdiction ; neither the Acts or judgements of any of those Judges afterwards, in such special causes of evident supremam, either direction, or assistance : neither during their forty years peregrination in the wilderness, nor in their daies of rest, untill they called for a King, nor indeed at any time : That is, we are not to take what ever one judges supremam or subordinate, in ordinary jurisdiction or legall government say, as a binding word issuing from an infallible spirit, or accompanied with such divine directions ; But according to the respective laws, and customs of the place and Nation wherein we live, ordered according to the reason, and necessity

sity of intervening accidents, wherein those general rules, which nature teacheth, of self preservation, and of preferring generals before particulars, and general and common good before particular, (alwaies presumed nought be done contrary or destructive to any part of Divine rule) must by all men, as was by them, be observed. But seeing all that *Moses* did was not extraordinary, let us a little view his behaviour, in the course of this narration, even of that man with whom so extraordinary a spirit rested ; for his first actions I leave the reader wholly to Scripture (only this, he was under persecution from his infancy, being then expos'd to the mercy of the waters only) for what I shall specially aim at, shall be, and are his acts judicial, and those either in referenc to Church or Common-wealth ; The first law of *Moses* mouth was not only binding to the *Jew*, but from the equity of it, was, and is, the pure principle of obedience to the suprem power, Obey God ; for where that is not, or ceases, the other is little observed ; so that some, which it was thought believed no God, yet professed many, by that superstition to inforce a reverence, and from thence obedience. *Moses* now not only gives, but administers law also unto the people ; in the next place looks to settling of civill judicatures, in the establishment of Judges, and giving rules for the choice of Judges and administration of justice ; wherein it is worth observation, that the advice *Moses* receiveth herein, though not from the mouth of Almighty God, but of *Jethro* his Father in law, yet being agreeable to good reason, (I say no more) he yields, enquires not of God, nor did God alter it after, because not coming immediatly from himself, nor made any declaration by himself or *Moses*, that it came from him, either to get the glory to himself, or to enforce with greater authority the acceptation of the same : Nor yet disallows of it after, but approves it, and it was an establisht Law for the great judicatory of that Nation for ever accordingly. The next thing was the Act of Almighty God in giving the laws whereby the people should be judged, which were summarily comprehended and written in two Tables of Stone, (it may be to signifie their long or everlasting duration) which were delivered by Gods own-hand (according to our natural expression) unto *Moses*, and by him, unto the children of *Israel*, Gods people ; which Laws were of two sorts, the first concerning God, written in one Table ; the other concerning man, written in the other ; now these being as we say general laws, and difficultly could all sins and offences by the common people be reduced to their proper Commandment, so that they would have pleaded ignorance, in excuse of their sin ; Therefore God gives particular Laws, and Rules, for all emergent sins, and sets forth particularly the whole frame and order of the worship, and service he expected from his people, yea every circumstance requirable therein, upon which the whole Law of God, or which God gave to the *Jew*, was or is thus distinguished, into morall and ceremoniall, relating from man to God in his worship and service of him : And into morall and judicial, relating from man to man ; which later must be thus opened ; The Laws of the two Tables were and still are by many supposed to be absolutely morall or perpetual, and that as well to the Christian now, as to the *Jew* then ; but the judicial not so ; but of this more in convenient place and time, Now these judicial laws, commonly called *Moses* judicials, did respect both body and goods, all which stand upon such order, as is most agreeable to natural equity, to the well being of a Common wealth, and that, both in peace and war ; To a mans self, and also towards his neighbour, superior, and inferior ; yea in all things tending thereto ; which laws as the *Jew* received them from the hand of *Moses*, as their cheif and governor ; so did they live accordingly, giving obedience to them all the daies of *Moses* ; after whom, not *Moses* son or sons ruled *Israel*, neither by his, their, or the peoples seeking was any such thing once mentioned, but the government (most especial gifts and graces, testifying his divine vocation, shewing forth themselves in him) was given unto *Joshua* ; but no new law divulged, but the division of inheritances to the several Tribes in their respective conquests, was as the Lord had commanded *Moses*, and he gave forth as a law to the people. And having through Gods goodness given possessions, and in peace, to *Israel*, before his death, he calls for all *Israel*, or their elders, heads, judges, and officers, and from Gods former and present mercies, promise and threatenings, persuades them to obedience to these laws, which for some time they observed under their particular heads of Tribes, without any particular Prince, and won great victories against their enemies, (which although I find in history to be ascribed to be done under

under the command of *Phineas* the Priest, yet I waive it, and only prosecute the order of Scripture.) The next successor in government there given to them is *Othniel*, then *Ehud*, *Shamgar*, *Deborah* and *Burak*, then *Gideon*; these were by a special spirit of God raised up for the deliverance and saving *Israel*, from the hand of those enemies, into whose hand for sin their God had delivered them; But they still departing from him, that is, from his Laws, not giving either any, or not due obedience, God as it seems intending to chastise them yet more (as the stroaks or contentions of friends are most bitter) suffers *Abimelech* the son of *Gideon* by unjust and unwise wiles to seek not only the government, but a kingdom, yet after his death (whose ambition was also punished together with the peoples sin (for the people were Gods avengers on him as he was of the people) now arises a new succession of Judges of several Tribes, and as it seems also by the special hand of their God upon them, as *Tola*, *Jair*, *Jeptah*, *Sampson*, after whose time there was as it were an *interregnum*, no King, no Judge in *Israel*; and the manifestation of the will of God by a special spirit to any chief of *Israel* ceased, and so for defect of worthy noble virtuous spirits, the government was conferred upon *Eli* the Priest, in whose time there was no manifest vision; And though *Samuel* the last had it, yet it continued not after him, if it ceased not to work at sometimes in him, who as it seems rather out of fathetly indigente (although he had seen the judgements of God upon *Eli* his Master, and his family (for such weaknesses are evident often in Gods dearest children) then by divine appointment, makes his sons Judges: but they turning aside after lucre, and taking bribes, perverted judgement. Whereupon all the Elders of *Israel* gathered themselves together, and came to *Samuel* to *Ramah*, and said unto him; Behold thou art old, and thy sons walk not in thy wales, (that is righteously) now therefore make us a King to judge us like all Nations. Where we may see, error in government and governors easeth desires of change of government, &c; But the Lord commands *Samuel* to listen to the peoples voyce, but declaring to *Samuel*, who it seems was also a little sensible of the peoples neglect towards him, though most for God, that this choice of man was their rejection of God. Whence mark, in the purity or purest of times, Gods Church was governed as a Commonwealth, in the declining daies it grew to a kingdom. The next thing to be considered of, is, to see the King settled in his Throne, wherein I shall first seek out, how they came to have a King, that is, whether of divine appointment, or of their own election; tis truth that it seems both concurred, 1 Sam. 8. 5. compared with 1 Sam. 9. 13. but then the question is moved justly, who was the first and principal Agent, the Lord in appointing, or the people in requiring a King, which being plain on the peoples part, it is objected that the Lord in his first laws to his people, *Deut.* 17. 14. &c. gave them a Rule concerning the choice of their King, namely one of their brethren, &c. and that *Jacob* prophesied of the same, and that God laid down the duties of the King, &c. To which it is answered, that neither the prophesie of *Jacob*, nor Gods laying down the Kings choice, duty, and such like, nor nor *Samuels* anointing *Saul*, by Gods appointment, proves any divine institution, no more then the prophesies, &c. of great sins and defections from God. &c. warrants them: No, no, the utmost it holds forth is rather a Divine concession, then an original institution; for the Lord in that eighth of *Samuel*, tells *Samuel*, the people had rejected him for being their King, and laying before the people by *Samuel* the usage of Kings, ruling at list, or according to their own will and power, as it were to deterre the people from it, the peoples stubbornnes ver. 7. 8. and 19. and 20. shews plainly that in wrath, as the spirit elsewhere expresses it, he gave them a King, that is, yielded to their desire of a King; and *Saul*, anointed by *Samuel*, was chosen by Lot, and being hidden, was sought, and by Gods direction found out of the people, and saluted King, with a God save the King, whence if it be thought fit to be objected, he was chosen by Lot, and so the disposition of that being from the Lord, the Lord appointed the King, its agreed; but thence to infer that Kings are of divine institution, it followeth not: This only is properly raised thence, that God appointed that person *Saul* to be King of his own people: after *Saul* *David* comes to the Throne, and though by Gods appointment, and special designation, the house of *Saul* contends with him; *Absolom* the Rebel, and carries the multitudes of *Israel* after him; and *Salomon* the wisest of the sons of men succeeding, though by *David*s appointment, yea by divine approbation may wales manifested, if not fore-prophesied, he so sins, that the Lord rejects him, dividing the Kingdom, and now

now in the settlement of hereditary succession, that special spirit which accompanied the chiefs or Kings of Gods people ceases, as to the most, if not all of them, and rested upon special Prophets, whom the Lord raised up in the Raignes of several Kings, for the manifestation of his glory, and love to his people, not only declaring his notice of their especial sins, but also denouncing judgements in case of impenitency, which accordingly fell out in the several reigns of several of the Kings of *Israel*, & *Judah*, which subsequent Kings were either faithful wholly, or in the main depending upon God, & walking in the waies of *David* their father; or else a kinde of formal servers of God, not faithfully, but hypocritically, or openly profane, and Idolatrous, one or two especially, *Jeroboam* who made *Israel* to sin, yet of Gods appointment, renting the kingdom from *Solomons* heire to give it him, and *Ahab* that sold himself to work wickednes in the sight of the Lord, for whose outward humiliation only God spared the Nation during his daies.

Now this is to be noted, that even then, such as was the King, such was the pople generally, and for the greatest part, at least in outward profession; An idolatrous King, an idolatrous people; a luke-warm King, a carelets people; a zealous faithful King, a reforming praying people; So far ever was outward splendor and power a leader of outward profession, and civil conversation; and under the law, accordingly, as the Lord was served faithfully, negligently, or prophane, such was his carriage towards this his people, under faithfull and holy Kings, great blessings, both of War and peace; under the indifferent, luke-warm, neuter, self-seeking Kings; Securenes in peace, and cutting short in War; But under the idolatrous and openly wicked, actual devastations, besiegings, overthrows, and at last general captivities; of which, the kingdom of *Israel* so called, being of the ten Tribes under the head Tribe *Ephraim*, felt sorely, and still feel, where ever they were carried by the *Affyrian* Monarch; who was punished as for her own sins, so for the example of her sister *Judah*, whose race was yet continued in their own land, under their own governors, but for sin cut short, and the royal race wasted, or over-awed, the kingdom at last became Mercenary, and set forth by the *Asian* Kings, the successors of part of the great *Alexanders Monarchy*, to a publique sale, yet sold to the Preists, and of the royal blood, untill at last in the fulness of time, the *Romane* conquering, or Commanding both the *Asian* and *Egyptian* Princes, it was sold or given to *Herod* an *Edomite*, so that now the Law-giver and Scepter departed from *Judah*; The temporal kingdom of the *Jew* in power royal, ceased from all the Tribes of *Judah*, and *Israel*; And now the *Jews* themselves expected the comming of their *Messiah*, and the fulfilling of the Ancient prophesies, according to their received vulgar interpretation, of a most glorious mighty powerful Prince then to be raised up of God, who should subdue all their enemies under them, free them from the *Romane* yoke, now so much feared, and should lead them in the strength of *Moses*, and *Elias*, and by his power should consummate all their joyes, in reducing their disperitions to an head, and seating them freely, and absolutely the Commanders of the Univers: Thus private interest still led on the people, though pretending to God, so powerful is nature ever with the flesh. Having here drawn into a short sum the Mysterious history of Gods dealing with that people, which he did more immediately hold as his own inheritance, and made a special covenant with them, before we pass to new matter, let us a little look back and review, generally and briefly what this people was, the form of the Covenant, the nature of the Laws and Statutes given them by God, and their execution, and such other particulars as shall offer themselves. In the first age the persons magnified in holy writ, is, *Abel*, *Enoch*, and the rest, what were they but plain men, living innocently; *Abel*, though loving God and loved of God, God rescues him not from the violence of his brother *Cain*, but he falls and perishes under his hands; and *Enoch* among the Ancients lived no more then three hundred sixty five years, and was translated, (as tis translated) that is, to Saints, taken into the mystery of God, but to men ceased to live longer on earth; both were blessed, yet one dies violently or untimely, the other timely; he lived not half the daies of wicked men before translated; both judgements in mens accounts: In the succeeding generations after the flood, what was *Noah*, the preacher of righteousness, or of the truth, which were traditionally, or otherwise received, as the word of the righteous God? He was neither believed, or regarded of the wicked world, and though he saw Gods great judgement upon the world, and his special mercy to him, in their destruction, and his own wonderful preservation, immediately sins grievously

vously, and is derided of his own accursed son, yet this is the man whom the Lord chose, and with him enters an express Covenant.

When he chose a Judge and Ruler, whom did he choose but *Moses*? And his present qualifications, were, an Alien, exposed, in a strange land, and fled then for fear of what the eye and Judgement of man called murder, (I speak not this to justifie sudden murders) and where he was at first a hired servant, at best a sheppard, a stammerer, and tediously impertinent, even with God himself, and loth to the work, though God had also fitted him in a humane way, for government, yea the extraordinary duty which was upon him, to lead a rebellious and stiffnecked people, as he found them, to which end surely by divine providence (he was not only of a meek spirit to bear injuries, but wise to make use of them) brought up not only in *Pharaohs* house, but learned (in more then the ordinary politiques or usual recreations, of hawking and hunting, swearing, drinking, gaming, &c) in all the learning of the *Egyptians*, which was the admirablest of that age, as stories witness: the very Greeks themselves, borrowing their knowledge from them: And this was according to the rule of God; for the choice of a Magistrate, men of knowledge, not men that had the age for knowledge, or education, or such like helps, if they wanted the thing, but that knowledge indeed. I omit to speak of *Abraham*, *Isaac*, and *Jacob*, as exercising but only a paternal power, which though it were the foundation or rise of other governments, yet must now be enlarged, as necessity evidences, as well as enforces; and when the other Judges, or Heads, or Elders were chosen, they were chosen according to the rule, and so long they prospered; yea go to the Kings, *Saul* seeking Asles, *David* from the Sheep-fold, and how were these despised (that I may speak it once for all, the generality of men, saw not Gods choice; else why did the people so murmur against *Moses* and *Aaron*, *Miriam* against *Moses*, as also *Corah*, *Dathan*, and *Abiram*, and the next day all the people, notwithstanding that exemplary punishment upon them, saying of them swallowed up, you have slain the people of the Lord: so of *Saul*, shall he? (he in derision, what a Benjamite, a yonger son, &c. shall he deliver us? how?) Deliver, as if they had said, he cannot; and if you aske me the reason both of this and all other disobediences to prophesies, commands, and declarations of the will of God, I must deal plainly with you; the same reason moved them, moves us; and so on the contrary, we believe, or believe not the word; As our harts are affected, so move our hands, so are our actions enlivened; see this when *Saul* chops the Oxen in pieces, and sends them through all the coasts of *Israel*, with that Proclamation, So shall it be done to him that will not follow *Saul* and *Samuel*. The fear of the Lord fell upon them, says the Text; what is that, but the Lord put, or raised up their spirits to the work, and so it was effected? and where God gave a spirit of sloath, deadnes of heart, &c. there they set still, and were afterward punished, as well as cursed, who did not help the Lord against the mighty: Yea the Prophets were not esteemed in their daies; which of them came to his end, either without sufferings, or but by sufferings? and who were the Enemies? The Kings, &c. and which of them, but the evill ones, see *Isaiah*, *Jeremiah* and the rest; and yet their great renown was spread abroad amongst strangers, though there may be a reason for it, as *Jeremias* providing for by *Nebuzaradan*, giving him in charge to *Gedeliah*, and that was he prophesied against *Zedekiah*, and for *Nebuchadnezar*; but our Saviour hints another, God did not raise up his Prophets in vain, but they were his messengers, and against the Kings, and Princes, and therefore being hated, or at best neglected by them, so were they by the inferiors, following their example: and so called mad fellows, and by the base Priests of Idols forbid to prophetic in the Kings Court; and all along such were they whom God chose, owned, employed, and Covenanted with; and now not to speak here more of the persons, I come to the nature of the Covenant, which both with *Noah*, *Abraham* and his offspring, *Moses* and all *Israel*, were in the letter but outward blessings; and though by the word everlasting there is more to be gathered, yet at first view, what is it? Seed time and Harvest, the dominion over, and use of the Creature, but with restraint, not with the blood, cold and heat, Summer and Winter; and now God gives a law, and not before, otherwise then as the voice of nature sounded it forth against murder, professing he will not only require the blood of man at the hand of man, and that without any exception, but even of the beast; and this law was before the so called partition wall of divine love to the *few* was declared, while all men were

were simply considered as the sons of *Adam*. Upon this declaration there is a new covenant ; but what is that ? All this land will I give to thee and thy seed, and blessings where ever they go, assured by the note of Gods Alſufficiency, which though typing higher matters, both in respect of the place *Canaan*, and his seed ; the Lord Christ Jesus typed in *Isaac* ; yet *Abraham* faith fails him ; for his life and wife he lies ; and *Jacob* pilleth rods, and deceives, as some say *Laban*, to enrich himself, and was irregular in his affection to *Rachel*, and other frailties ; Such also was the Covenant with *Moses* and all *Israel*, In blessing I will bless, with riches, honor, long-life, victories over enemies ; and this was in case of obedience to Gods laws ; and then for disobedience, Curseing I will curse, the earth should be Iron, and the heavens brats ; and as before, one should chase 100, and 100. put 1000. to flight, &c. so now they should flye when none pursue ; the same Covenant with *Solomon* ; all which shews, that what the Lord held forth to the *Jew*, was outward and legal obedience, so called righteousness : and now that the Covenant might have effect, God gives his law, with promises and threats ; and this according to the nature and quality of it, either toward himself, or of one man toward another ; for the Laws towards God, they were either the moral, the sum whereof was the ten Commandments, of which the first four are here first to be discussed, and are indeed the prerogative or royall law; which were briefly, To have but one God: Secondly to make no likeness of him: Thirdly not use his name irreverently: Fourthly to sanctifie a seventh day, if not the seventh day to him ; all which laws are still binding as accompted morall, though neither wholly accepted nor neglected ; the mystery of the Trinity being by some impugned, the likeness or similitude of God made now in the shape of man, the most dangerous Idolatry, his name blasphemed, and no day kept as it ought, though a day professed for his service : (but of this anon) The other laws were relating from man to man, first settling the rule of obedience to the then generally supream power, being especially paternal ; whose Complaint the whole congregation were Judges of, as executioners ; then he comes to the special and highest crimes, of Murder, Adultery, Theft, to secure life, chastity, property, and for a further assurance gives a law against false witness, and as the ground of all, and root whence these vices flow, forbids covetousnes. Now these laws were given in terror, as *Moses* faith, to prove them, that his fear might be upon them, that they sinned not, (yet all was too little to hold in so stiffe-necked a people) and after these general laws, as the heads of common Justice in the root, and branch, he gives other laws for all occasions, both in respect of Magistrate and People, Master and Servant, Parent and Child, Husband and Wife, Enemy and Friend, or Confederate ; and that both for War and Peace, and that with respective security both to day and night, and that for life, Maiime, chastity, goods, good name ; and that as a beast might offend, with respect to him, as the Ox goring, yea to beast as a sufferer, as wandring, yea and to the wholesomness and means of healthfulness of men, not only in their wandrings, but in their settled habitations, remaining still the host or congregation of God, not to have any defilement open to view, for all which I refer you to Scripture, with the rest of the heads specified from the twentieth of *Exodus*, and so onward ; and having thus settled an outward law of peace, and rest, or War and Captivity, or other Judgements, bound and assured by threats and promises, the Lord now proceeds to the establishment of the manner of his worship, which was and is generally holden wholly typical, and ceased in our blessed and eternal Saviour the Lord Christ Jesus ; and this I wholly at present omit to enlarge, and now come to the third thing considerable, which is the manner of execution of these laws, which was very severe, as you may see in the punishment of *Corahs* sin, and so in *Achans*. The men, wives, children, and all were punished, not only by God as in *Corah*, but after by *Joshua* in *Achan* ; a terrible God, a terrible law, and terrible execution ; yea the law was extream rigid, if we regard the proness of mans nature to offend ; what, a poor man to gather a few sticks for his necessity upon the Lords day, and dye for it ? what, the Princes and holy men that knew as much by themselves as by *Aaron*, all devoured by an earthquake, for their zeal in offering sacrifice to God ? the people were so sensible of it (but in presumption) that next day they blame, if not threat *Moses* and *Aaron* for slaying the people of the Lord. Now these laws were the then rule of the people of God, and by these did the people of God under the whole regiment of the law, eithr justifie or condemn themselves : *Solomon*, How shall I do this, and sin against God ? So *David*, thy law is my delight, my continual

continuall meditation, that I may not transgress thy will; so *Job*: Thy waies have I kepr, and have not declined from them; and so the yong man in the Gospel, All these have I kept from my youth up; and *Paul*, after he was enlightned justifying himself in his integrity against the *Jews* his now persecutors, saies of himself, As to law blameless, that is, he knew not, nor could any one tell how to accuse him of the breach of the letter of the law in any title; now if you ask whether these laws were the best or not, I must tell you that most undoubtedlly the laws in general were such laws as no Nation in the world nor altogether had (from themselves) so exact a plat-form of government; but surely some of these were but particular to that Nation, and that as our Saviour saith in the case of divorce, yielded unto, rather then given, for the natural inclination of the peoples sake, or by reason of the frowardness of their disposition, which our Saviour calls the hardness of their hearts, specified in divorce, and also as that of the law of jealousie; That law for unclean and clean food, I acompt rather typical then judicial. Now to all these laws were Promises annexed in case of obedience; Threats in case of disobedience, which were often reiterated by those special Prophets, whom the Lord raised up, in the several generations, under the Judges, Kings and Ringly Priests, untill the Lord sent his own Son to declare his will unto his people, in the fulnes of time; and though *Moses* were faithful, yet that was but as a servant, as saith the Author to the *Hebreus*; but the Lord Christ Jesus, who is the Apostle and high Priest of our profession, is sent from the bosome of the Father, to whom the whole will of the Father was known, and in these last times God speaks to his people by him, even his own Son, whom he made heir of all things, who being the brightness of the glory, and the engraved form of his Fathers person, and sustaing all things by his word, hath by himself purged our sins, and sits at the right hand of his Father; wherefore we ought with all diligence to attend to that heavenly doctrine which this our Lord declares; for if just punishment were retributed by the Lord to them who disobeyed the word spoken by Angels: how shall they escape who neglect the Gospel given by the Lord of Angels, the Son of the Father, to whom the Angels are but ministering Spirits? him, of whom all the Prophets fore-prophefied, even the *Shilo*, the *Messiah*, the Saviour, who should save his people *Israel*, and lead them through the wildernes like a flock of Sheep, under whom they should lye down in the pleasant places of rest, and none should make them affraid; He that was now expected by the *Jew*; and so much the rather, as fearing bondage from the imperious and flourishing *Romans*, and hoping of salvation and deliverance, temporal Grandeur, power, and dominion, by his puissance, who was to break all Nations as a Potters vessel, and thresh them with an Iron Mace; to whom all people must bow down, the mighty Counsellor, the Prince of peace, and his yoke must be upon their neck, and his government upon their shoulders, till time should be no more.

Now lets a little consider how the state of *Israel* or the Kingdom of *Judah* stood at the time of Christ's coming; That they expected the *Messiah* is evident, they seeing those things fulfilled which were fore-prophefied, of which sure they were diligent heeders, especially being driven thereto by so many daily fears, as the power of the *Roman*, and the Tyrany of their strange King put upon them; and the Scripture notes of divers to whom God had imparted a true understanding of the light of prophefy, who kept continually in the Temple, and served God day and night with fasting and prayers, looking for, or expecting his coming; and no doubt they had disciples abroad, who being instructed by them, had their hearts prepared to believe him, though no outward form, beauty, or comlinef (as others thought) appeared in him; So that their expectation was general; but each one after the rate of light and knowledge, true or false, which was imparted to him, or he had received under his Rabby, who read the Law to him, who were of several opinions, (not altogether dead yet) as *Pharisees*, *Sadduces*, *Essenes*, and these again subdivided according to the merit or acceptation of the Rabbies or Doctors of the Law.

The Temple was in respect of the legal strictness polluted, the whole law by these interpretations, instead of Gods rule, become mans fancy, or at best his precept; for all was now grown into the vast Ocean of subtily of conceit, and that Rabby was most venerable who could flye the highest pitch in sublime conceits, so that the pure Law was made a piddled fountain, and the spiritual heavenly meaning was lost in carnal voluptuomes and self-endedness; there was great learning, never more, but

but never to less purpose, much praying and fasting, Ashes and Sack-cloth, yea and besmeering their faces, to suborn humility, but all to hypocrisy ; and yet sure if in *Esays* time they Justified themselves against God as impotent, that he could not see their fasting nor humiliation, and soul affliction, nor hear their prayers, nor answer them by deliverance, as in the fifty eighth of *Isaiah*, then much more now, when greater mercies were expected, and longer time had revealed more light ; but they did all for pretence ; this, and almes, and all, to be seen of men ; to devour widdows houses, and enrich themselves ; though the whole State were beggered, eager and strongly contending for privileges, but still to better themselves, though greater losses to the publike accrued ; condemning their fathers, and surely the ten Tribes their brethren, who were before carried captives by the *Affyrian*, and placed beyond the great River ; and justifying themselves as holy, in that they built the Sepulchers of those Prophets whom their fathers had slain ; And by this expecting the *Meſſiah*, and by him deliverance, and this was the state of the Jew at the birth of our blessed Saviour, born of *Mary*, at *Bethleem*, of the Tribe of *Judah*, of the stock of *David*, yet as not owning inheritance in the world, brought forth in an Inn, his Cradle a Cribb, his consorts the Ox and the Aſs, the room being no better then the stable ; yet where God stirred up the hearts, there was he worshipped by Kings, if not by wife or learned men, of great esteem ; fought to be slain, flies into a strange land, and then is brought by his father to a mean village, where he submitted himself to all the laws which his servant *Moses* had delivered, not only in the circumcision of his flesh, but in fulfilling the whole law, and that not only private and domeslick in his obedience to his reputed father, and his mother *Mary* ; So that he was called not only the son of the Carpenter, but the Carpenter (untill such time as he was called out to his Fathers work, which was first at twelve years of age, to the astonishment, as confusion of the Doctors, which was Gods Act of preparation to those Rabbies, had they not had eyes that they might not see, and ears that they might not hear, because the Lord would condemn them) but also in the publike administration of the Jewish law, appearing by his going up there to the Passover, and that not only to his God (as man) but to his Prince, yea though a heathen, a stranger, giving his tribute to *Ceſar* ; he had also a fore-runner, *John* the Baptist, in whom I must observe, that he preached a new doctrine, *viz.* Baptism, yet even the rulers went out to him, and though he in his preachings shewed the error of the then sort of teachers, he was not meddled withall, nor opposed, much leſſ imprisoned ; But now when Christs time was come to preach, I pray let us mark his behaviour, first he goes to *John*, and is of him baptised, and then receiving a testimony from heaven, to prepare the people to recieve his doctrine, he then is carried into the wilderness to be prepared himself by temptation, whereto his manhood in it ſelf was ſubjeſt, but by the Godhead ſustained, and this finished whereby he was approved, he now ſets upon his work for which he came, and as a Doctor of the law he preaches, or declares the minde of his Father ; *John* he begins in (a ſtrange place) the wilderness, and he cries, Prepare the waies of the Lord, make his paths ſtraight ; the Lord Jesus he follows, and in the land of *Zabulon* in the City *Capernaum* (the obdurate people had need of redouble blows) he preaches, and ſayes, Amend your lives, for the kingdom of God is at hand ; and then he chooses or calls to help him in this great work of reforming ſinners (and that of the greatest ſort) poor fishermen, ſurely as rude and ignorant as the reſt, in ordinary, and these he makes his partners in the work, and now instead of expounding *Moses* law, according to the order of the *Scribes* and *Pharisees* in the Synagogues of the Jews (places of publike meetings for that end, but alwaies intended for the ſervice of the moſt high and true God by the Jew) he preaches the Gospel of the *Meſſiah*, and withall healed their bodies, no doubt to intimate that what he preached of the blindneſs of their mindes, was not only true, but that he would and could heal theſe alſo, he being for that end come into the world ; and now his fame of miracles and ſalvation to the body being ſpread abroad, he hath great renowm and glory ; for ſuch benefits are quickly reſented, and now this preparation made (miftake me not that I think Christ or his doctrine had need of any outward help, in reſpect of his power, who could of ſtones raise up children unto *Abraham*, but in regard of his will, it being ſo by the Almighty wisdom pre-decreed that all things in ordinary course ſhould be ſo carried, that no man ſhould without his Spirit, ſee, that good or evill was to man, but by means, though the wife man ſaw the contrary)

contrary) he divulges his Gospel full of inward rayes of divine wisdome and magnificence, but averse to the then received doctrine, the interest of the then prevalent (party) or factions, the *Pharises* and *Sadduces*; who had the trick of this age to count all gain sweet, and were (not by words to aggrandize that sin which was high enough in it self) no better then hypocrites, even the best and strictest of them; for so our saviour bears record, If your righteousness exceeds not that of the *Scribes* and *Pharises*, you can in no wise enter into the kingdom of God; and if I be not deceived, his whole doctrine tends to this, namely to prove, salvation was not through the righteousness of works, but by faith in him, and yet evidences this faith by the works of the law, but not according to the vulgar interpretation of the doctors of the law, but according to a more divine and exact rule, which I shall thus diversify; the Doctors gave a liberty from or beyond the letter, for their lucre and mans lust; Christs rule is restraining the liberty of the letter, if any liberty were, against all lucre, selfe end, or advantage what ever, as is most evident in the exposition of our saviour upon the sixth and seventh Commandments, manifesting it was not only the act of Adultery, but an unclean thought that God abhorred; and it was not only the life of thy brother which God forbad thee to seek after, but even of thine Enemy; and as a private person, you were not only not to punish the offender, against thine own self and life, but to do good against his evill; and for thy brother, take him in natural, national, or spiritual relation, (all which I presume ought to be there intended) thou oughtest not by evill words, either to provoke or revile him; this was the Doctrine of him who was the Prince of peace, and gave laws all of love; it was his legacy, his will, his precept or Command; so that I see not by this doctrine in any thing the law moral nullified, but explained; and this I take to be out of doubt (except to the fourth Commandment) on all hands, which yet he takes not away, although he doth give a liberty which the Rabbies granted not, (at least in him) namely to do good that day; and surely though he makes man lord of the sabbath, it was not to take away Gods omnipotency in the power he had over man, and all his daies; for the reasons of the sabbath, or a holy rest, are still the same, both in respect of man in his freedome from labour, and thereby made more fit for spiritual services, and also in regard of the ends, mans increase of outward knowledge in the written law, or revealed will of God, and the glory of the Creator (if he can reap any from the weak imperfect duty and endeavour of the Creature.) But the Lord himself I say did in no kind abrogate the day, which God instituted in paradise, though he cleared the *Jews* mistake in their manner of observing that day. In the next place for the judicial law, our blessed Saviour he meddles not with it, any way to annull or disapprove it; himself and his disciples observed it, and he saies of that, and all the whole law, he came not to destroy the law but to fulfill it; and was so far obedient, as that he would not meddle as a Judge, whom God had made but a minister, and celebrates the passover according to the custome; till he came to preach he wrought the work of his earthly father; after that he professed the labourer was worthy of his hire; and doing his heavenly fathers work, going about and doing good, healing all diseases both bodily and spiritual; and that to all persons without respect of Nation or quality, sinner as Saint, Centurion as ruler of the Synagogue, the woman of Canaan and Samaria as well as of *Jairus* daughter, or *Mary*, or any, and giving the same rule to his Apostles, he sends them abroad without either Scrip or Staffe or money in purse, yet assures them that as himself was rejected of his own, when he came to them, and they knew him not; so must they, his disciples, expect the world would use them; they must be brought before rulers, Kings & Emperors for his name sake, (Majesty is alwaies jealous of Competition.) See who should be his Enemies; But not only so, they should be hated of all men for his truth sake, that is the reason why hated, for his truth or names sake; and that they might not be discouraged, he foretels his passion; but how wrought it at the time of Trial? all fled but *Peter*, and he denyes him; which of the rulers, say the Rabbies, seest thou believe on him? for *Nicodemus* the ruler came only by night, none knew it; mark it, the wise men rest in their wisdome, and the rich though convinced, yet are wary; shame, or fear, or both (of men) keep many a man from God; yet they knew him; his miracles they attribute to the Devils power, he evinces the contrary, they yet believe not; they admire, but believe not; thus he spends his time, and having attained seventy Disciples, and some few women, and here and there a Sinner, with whom

he most conversed ; for he came not to call the righteous , but sinners to repentance, through the meekness of his carriage, and goodness to all, having taken off the eagerness of the multitude , and made them followers of him, if but for his wonders sake ; he is in the appointed time betrayed to them (who now were jealous least the multitude should believe in him , and *Cesar* come and take away their Nation) by his own Disciple , when he had now declared and sanctified his Testament ; at which whether *Judas* was present I will not stand here to controvert, but only say if he were, it is for terror, not comfort or warrant for sinners to approach these sacred mysteries without due examination ; he ate and drank his own damnation ; but being hidden, I shall not search further, or difficult I will not here determine further ; and being now apprehended, its consulted whether he should be put to death ; the High Priest (prophetically saith the Scripture) politiquely saith the rationalist, least the people making him King, as was like they might, induced by his powerful workings, and thereby hoping in and through him to be delivered from the Romane yoke, which the great men feared would bring an assured and speedy bondage upon them , concludes, better one die then all ; and then by that people (oh vanity) who before they feared would make him a King, they now condemn him as an enemy to *Cesar* ; but that not holding, by their choice of a Murderer, the Heathen judge acquitting him, they condemn him ; and now his Apostles and Disciples preach the same Doctrine after his resurrection, by which they were established, being before shaken grievously ; we thought this had been he, saith one, and all were affrighted at his first sight, not understanding the Scriptures, yet saith he, they plainly testified of me (and I pray take notice, to *Sathan* in his Temptations, to the Lawyers and Pharises and other the offspring of the old Tempter, and also to his Apostles, he useth the word or letter of Scriptures, which was in self convincing, but to the First the word only, to the Second oft, not only the word, but a further and more spiritual meaning) and I pray see the same foundation Christ was, and laid. The same the Disciples, Apostles, and others use and build with and upon, and in the same way, according as they received light (which was not all at once (I pray observe that) they had the spirit all, but all not any of them had all the Spirit ; they had their portion, the grace as *Paul* saith, which was given some in one kinde, some in another ; therefore they first apply themselves to the *Jew* ; our saviours rule while he lived, was, Into the Cities of the Gentiles enter you not, but go you first to the lost-sheep of the house of *Israel* ; but after a time God manifests by the vision of *Peter* (so God taught him first) after by pouring the holy Ghost upon the faithful house of a Gentile that they might be baptized ; and now after a disputation and satisfaction from *Peter* of these things (they that were infallible in particulars which the spirit gave them, were not knowing and sometime erred in what God yet revealed but to *Peter* (I pray note this but now) freely they preach to the Gentiles, and zealous *Paul* of a persecutor (I say no more) made a preacher, he goes especially to the Gentiles, and with much labor and travile, and with many dangers preachers Christ ; but the Devil is as busly as may be ; he feared not these men who had received the holy Ghost, and had abundance of the spirit, he throws his stone, and hath Agents enough to roll it ; now the Gentiles are admitted without dispute ; the question is if they be not bound to *Moses* law. I finde no question of the moral ; the scruples are concerning the judicial and ceremonial ; the first question was concerning some that taught the brethren circumcision was needful to salvation ; this controverie which hath filled the world so called Christian so full of controversie from that time to this present day, as namely whether we be saved only through the righteousness of Christ apprehended by faith, or have need also as to salvation to observe the Law, that by the *Jew* was meant of the visible law ceremonial, by the Christian moral &c. The wits of the world saw not then the evidence of the spirit, nor would acquiesce in the resolutions of the very Apostles themselves ; so that the congregation at *Antioch* being hereby in great disturbance were enforced to send *Paul* and *Barnabas* to congregate the rest of the Apostles at *Jerusalem* ; this upon a full meeting, was to receive its end and determination ; where being received of the church, Apostles, Elders, and brethren, who were called together, and the matter publickly debated before them, the result of which *Peter* declares to the Church or multitude of believers, evidencing by the letter of scripture, and that of the old Testament, which surely is one of Gods witnesses, That, the Lord in calling the Gentiles, who were uncircumcised

cised which before was the visible condition of salvation, declared and testified, That salvation was in Faith without any Oblation to the Law. But mistake not; I intend not here, as if the Question were of abrogating *Moses* Judicall, but that Salvation was not tied to the obedience to that, or the whole Law; but only through the grace of the Lord Jesus: which being allowed by *James*, he gives his sentence, that the believers of the *Gentiles* be not yet till further instruction, tied up too close to the severity (as their vain liberty will account it) of the *Jewish* rigor, but in those things which will cast too great an *odium* upon us with the *Jew*, as participating in *Idoll* Sacrifices, whoredome, the great and ordinary delight of the *Gentile*, and in eating any thing strangled, or bloud, as being a precept highly esteemed with them, lets in these, write to them that they abstain; to which all agreeing, it seemed good to the Apostles and Elders with the whole Church, to send this their resolution in letters by certain of the Church at *Jerusalem*, together with *Paul* and *Barnabas*: the stile, phrase, and order of which holding forth still the pattern of Christ their Master and Teacher's meeknes, gentlenes, and lowness, the Lamb dumb before the shearer, and testifying their unity in Christ their head, take notice of in the parts; the Inscription whereof was, The Apostles, Elders and Brethren, unto the Brethren (not the Elders, nor Officers, but Brethren) which are of the *Gentiles* in *Antiochia*, *Syria*, *Cilicia*, send greeting, in the body; Forasmuch as we have heard that certain of the Church of *Jerusalem* (or *Jews*) have troubled and cumbered your minds, saying you must be circumcised and keep the Law; to whom we gave no such commandment; to testifie which, we send eminent men in the faith to you; for it seemed good to the holy Ghost and to us to lay no more burthen upon you then these necessary things, that (to the end no offence be given to the *Jew*;) you abstain from things offered to *Idolls*, bloud, things strangled, and from fornication, from which if you keep your selves, you shall do well; fare you wel. Here was no charging, willing, and commanding from the sacred Synod; no Authority of the Church urged, more then the note of intimation, that what was done, was by them who had received the holy Ghost: The issue is also considerable; for these Commissioners of the Churches, both of *Antioch* and *Jerusalem*, comming now to *Antioch*, I pray consider their carriage, they assemble; whom? the Elders or Preachers? no, they would not tie the people to believe implicitly; therefore they assemble the multitude, all the believers, and there they deliver the Epistle, which is read with joy for the consolation.

This done, Satan is at work again, raising strife and contention betwixt *Paul* and *Barnabas*, so that they parted company: wherein I pray note, the children of God, nay, the chosen vessels, yea, consecrated by the actual operation of the Spirit, are subject more or less to humane frailties; consider further, *Paul* after this decision of that great controversie at *Jerusalem*, yet by and by he circumcises *Timothy*, to give content to the blindness of the *Jew*, and was never called to account for it either at *Jerusalem* or *Antiochia*; and though himself at the same time delivered the decision of the Apostles and Elders at *Jerusalem* to those converted to the faith of Christ in the Cities about as they travelled, to establish their minds, in case either the controversie concerning the Laws necessity were there raised already, or might right rise afterwards; by this humane Wisdom, labouring to prevent a further increase of that controversie. And if it be queried why they did not miraculously do it, as well as heal diseases, and such like; Know O man, that it was contrary to Gods Ordinance; he appointed preaching to convert the world, and miracles were Trumpets to call the people together, and prepared them to receive the Word, and with the Word God gave grace as he pleased; and that this must be so, is plain; for all that saw the miracles, attended not to the Word, and all that did both, were not converted: Thus you see the devils beginning; he presently raises up controversies in the Church, and also persecution; without the Apostles are imprisoned but for magnifying Christ; one condemned to death as a traitor, an enemy to *Cesar*. See, it was the doctrine of Righteousnes was opposed; but Treason is charged; how many Christians have played fast and loose for this cause with Christ? for, could they have suffered as Martyrs, and had the point of Controversie been the main of their charge, they would have stood it out to the last; but that being but by the by, and Treason or Disobedience to Powers the chief, they faltered; but the Apostles and Disciples, through good report and evil report, went on in the Work, and great wonders were every day done, confirming the believer, and astonishing the opposer;

opposer ; so that now in the greatest Cities of *Asia, Greece, and Italy*, the Gospel is preached, wherein the believers of all sorts have the same rules laid down, which Christ delivered to his Apostles, clearing still the righteousness of the Law, but not placing Salvation in obedience to it, as is manifest in all the writings of the Apostles; and by them, as by our Saviour, urged by the Letter of the old Testament, declared by the Prophets against unnatural lust, idolatry, coveteousness, maliciousness, envy, murder, debate, deceit, frowardness, extortion, pride, boasting, idleness, haters of any good, doers of any wrong, inventors of any evil, disobedience to any power, ignorance, breakers of Covenant, without naturall affection, unappeaseable, merciless ; and that these are worthy of death, he appeals to the Laws, which if he meant of nature to the unconverted *Gentile*, whose morall strictness was most admirable; then surely to the converted he much more intended the Law of God given by *Moses* unto his people, according to an everlasting Covenant, being of generall necessity and convenience under the Gospel as during the Law ; and by those Laws he saith, the offender deserved death ; and surely that particular cruelty, was universal mercy ; and in and through all the writings of Scripture there is urged, not only a necessity of having, (but of obedience to) the Law, but for civil benefit, not as saving, but as found general in those whom God had elected, as St. *Paul* argues strongly, in shewing the nature of the Covenant with *Abraham* to be universal to all believers ; so that it was a Covenant of Faith ; and if I be not mistaken it is plain, the Covenant is, though called double, yet not liable to that distinction of Works and Faith, but that which was through the veil which was then upon the profession of the Law, placed in the obedience onely to the Law, and so called of Works, was now unveiled, and declared to be onely by Faith ; but withall evidenced that, that faith which was not still working, was dead, and the testimony of our faith to the Church was our works ; and I see not but that the outward promises, or promises of outward blessings are still the rewards of legal obedience ; and for the reward of faith, I see no promises but of eternal bliss ; and though the faithful keep the Law, yet they rest not now upon the promises of the Law; but the glad tidings of the Gospel sound in their ears, and they are fixed upon the *Allelujahs* of eternity : Out of all which we may gather, That the Law not only Moral but Judicial, being not absolutely and necessarily proper to the *Jew* onely, as being either Ceremonial, or alluding some way thereto, was the obligation of common or civil, and also of Christian equity to the whole Church believing in Christ, whether *Jew* or *Gentile*, which is plainly manifested through both the Testaments ; but now all the Ceremonial Law being Typical of Christ, that was abolished, so that as the shadow vanishes when the substance appeareth, the proper Priestly function, service, sacrifice, rites and all are buried ; and will God now leave no Rule of Faith, no worship, no day, no order, no government, no maintenance ? Let us see the way for this : First, Christ taught, then his Disciples, then each Christian instructed one the other ; and upon this ariseth Sects and Divisions, even in the Apostles times, some were of *Paul*, some of *Apollos*, some of *Cephas* ; so that now what was the Church, of or in a Province, was, or might be divided into several Congregations ; and that either differing in a Circumstance, yet holding all the head in one Communitie of worship upon occasion, and so onely a Sect, or differing in opinion in things not plain but doubtful, or else in matters which were counted of such value, or so nighly concerning the principal points of faith, that they did, as it were, rent from the Head, and would not admit admixtion, which were the producers of Schism ; and this was, or ought to be as was at first supposed, onely in heresie, things or opinions inconsistent with the rules of Christianity, which either did appear, or it was declared would appear in *Pauls* time : Now how doth *Paul* deal with these. Truly what power he had concealed, that he either used not, or pretended not unto, is not possible to judge of; but what he used was according to the nature of the Covenant explained, which was of faith, for the works of the Law, in literal obedience ; man may enforce obedience, but Grace is the onely gift of God; and therefore he onely useth the sword of the Spirit, which was the Word, powerful indeed in a right and skilful hand, and no other ; he informs, and labors to enlighten them, that Christ was the head ; and if a member were divided from the Head, it was no longer a member; and tells them plainly, that Christ was the foundation ; and who ever laid other, however wise in the sight of the world, whether of worshipping of Angels, mediation by Saints, abstaining from meats, forbidding to marry

marry, observing of daies, and all such like, though they had a shew of wisdome, in voluntary humility, and beating down the flesh, yet they were will-worship, the gate for *Sathan* to enter by, and by carnal seeming wisdome, to build with hay and stubble, and daube with untempered morter, yea to change the truth of God into a lye through the deceyeableness of the flesh; for these precepts of men, being admitted, first as explaining the will of God, were then accompted helps, then necessary, then matter of faith; and this prophesie, who is so blind that hath not seen fulfilled? therefore he advises, to beware of vain humane wisdome, or philosophy, which was bewitching, and tells that this mystery of iniquity began to work, and would work, and that there would spring Heresies, yea that it was necessary, but from the Gospel no one must depart, no nor though preached by an Angel from heaven; and least the people of God should be discomfited by the afflictions and persecutions of the Apostles, and other disciples and professors, it is often plainly declared, they must look to tread the trace which their blessed Saviour had done, who was the high Priest of our salvation, who was perfected through suffering; but withal declares, and it is plainly laid down, a most triumphant time should follow, whether here, may be doubtful to many, but hereafter is believed by all. So that that weight of glory shall far out-ballance the sufferings which any one under went for the Gospels sake. And truly the persecution even after the death of Christ was immediately great by the *Jew*, and though God left himself not without witness, even among the wisest of them, as in *Gamaliel*, *Nicodemus*, *Joseph of Arimathea*, *Paul* most notable, and others: yet there was little cessation, through the great division and factions, which God suffered them after the death of Christ to fall into, (*Hierusalem* being a type of spiritual *Sodom*) gave warning to the believers in Christ, to flye out of that *Babylon*, that so it might be prepared for that first coming of Christ to Judgement, which he did by the *Romans*, the Eagles flying and hovering over that carcals untill the appointed time, when by them it was devoured; and now begins the curse upon the remainder of *Israell*, of the ten Tribes, *Judah* and the residue, for their sins, being not forewarned by the great judgement, which fell upon *Samaria* and her children, aggravated by that most fearfull imprecation, His blood be upon us and upon our children, which City thus taken out of the way, the persecution ceased not, but is renewed more bitterly, under the heathen Emperors and their substitutes, in the several provinces of the Empire, and let us mark the Divels cunning, all evils were laid to the charge of the Christians, not only sedition, and tumults against the State, but the causers of those direfull evils, of War, Famine, Plague, Inundations which over spread the face of the earth; but these could not be so well proved; Though undoubtedly, the interpreters of the heathens Oracles gave good satisfaction to them were willing to believe it, but they had more evident Testimonies, if publike fame had not been ever subject to lying, they were breakers of all the laws of nature and nations; and this had some foundation in fence and reason; for they that taught that the love of the Gods was not obtained for, nor yielded to good life, right dealing, earnest serving of them, nay though accompanied with never so much inward zeal, or outward fervor; The Philosophers could easily summ the positions of the Christians into this General Doctrine, and then let them alone, to conclude, that surely there could be no expectation that these men should do any thing according to the law, but for lust, or pleasure, or profits sake, and therefore counted them enemies to all civil, moral laws, and living; and what could they then lay to their charge, which would not easily be believed of them, not only Adultery, but incest; not anger, but murder; not swearing or lying, but perjuries; and all abominations; and though these things were not done by day, their outward lives were civil and just, it was in the night, and though common Justice appeared in them to their neighbours, it was Hypocritical, their vitioufulness was acted amongst themselves, or such seeds sown, as would infect a future generation; And no doubt *Paul* having blamed them for going to law with one another, but especially before heathen Judges, which opinion they could not but hold in some part, while their Saviour taught them so oft to forgive their brother, and to him who would take thy cloak, to give thy coat also; these circumstances were aggravated, as people looking at no Government, no order, no discipline; *Pauls* reproving, exhorting, convincing, persuading, holding no communion, delivering to *Sathan*, were to them fancies of the speculative understanding, and all his weapons, not carnal

carnall to the destroying of the outward man, but mighty through the power of God, piercing even to the heart and reins, and dividing the joyns and Marrow, which their carnal religion could not comprehend; caused them to think, they did God good service to persecute and destroy them: yet God left himself not without witness even amongst these heathen, who not guided by the votes of the multitude, nor swayed with words, but substance, did in all Ages testify the truth, nor only evincing these charges to be lies, but the purity, holiness, profound sanctimony, and exemplary chastity of the Christians was unparalleled, and their trials manifested their patience invincible, so that they overcame also as Christ their chieftain through sufferings; and these were not only of the vulgar people, but learned Philosophers, and noble Senators, and ever or most generally; of the chiefeft in esteem for natural excellencies; and this was notorious, that he, or she, that were the worst heathens, proved generally the pretiest Christians; by which virtues at last, their enemies were even overcome, so that the very executioners turned Martyrs; And though God oft afflicted his people, and suffered them to be afflicted (for it is evident that under persecution they grew most, not only in holiness, but in Number; So that the blood of the Martyrs was found to be the seed of the Church) it alwaies turned to their greater good, and in his release from afflictions (for God gave them ever and anon a breathing time) they lost by Divisions, Controversies, Pride, Ambition, and such like, of the glory of their sufferings: which who ever reades the Histories hereof, cannot but observe, in persecution still praying, meetings full and frequent, Amities strong, and lasting, obligations mutual, Engagements reciprocal; And while they could hope to own nothing but themselves, they quarrelled not for what they knew not they should hold; and in the assuredness of propriety, had a holy community of all things amongst themselves; worldly cares were vain things, Honors despicable; Riches fatal; husbands deceitful; wives treacherous; Children troubles; all burthens but only Christ, the Lord Christ was their Spouse, their honor, their riches, their Treasure, their safety, their all in all; release them from afflictions, the world prevailed again, the flesh domineered; yet even then, how many were most holy, beyond preface belief? yet even then, how many that left houses, and lands, and all in affliction for Christ's sake in the storm, would never return from the Churches habitation in the wilderness in the sun shone; but wasted themselves in continual prayers, fastings, meditations, holy vows, and all exercises of the height of zeal; counting all too little they could do for Christ? how many flourishing virgins, thus espoused themselves in the Wilderness to Christ, as well as to the fire, to the beasts, to variety of deaths, and tortures for him in the Cities, and Towns? how lowly, plain, and painful were the then Pastors of Congregations? *Paul* taught, the labourer was worthy of his hire; but lookt at a reward far above earthly treasure, they were the first in holiness, every one chosen who had most ability; the set stipends were not their provokers, but zeal for Gods glory; what was given was not received, then sure what was withheld, was not sued for; And now it was plain, persecution was not the way to eradicate Christianity; and the very heathen Emperor *Julian* the Apostate, whose heart knew horror for it, as Christ's politest and greatest enemy, sheathes the sword, and works by poison, but not to the body; he hinders meetings under pretext of Treasons against the State, and for publique safety sets up Schools of Idolatry, and forces the Christian children to be there trained, or ell their parents dye as Traitors; Now, no longer Martyrs, this qualies many a courage, and was a great trouble and affliction to the Church; but they overcome God by prayer; here was the first tryal, and therefore need of the greater strength; They stood in the first rankes of the bataile of the Lord Christ, and they were by him fitted accordingly for the combat they underwent; fear of death, which to us is most terrible, was to them (unconverted) frequent, and therefore contemned; thus was courage by example given to them should follow; there is alwaies a mystery in providence, secretly fitting all things to that end the Lord determines, and works still for the good of his people; and this preparation I take to be against the cruelty of the second beast, which was to afflict the Church after the first beast (the *Roman Emperors*) was taken away; the Apostles led the dance, and the holy Disciples and Martyrs of all sorts followed after, and that with the same faith and constancy, though through variety of Torments; and the persecutions were so violent, that one of the learned among the Ancient Pastors of Gods Church Records, there was but one day in all the dayes

daies of the year, which had not been defiled with the death of at least five thousand Witneses to the truth of Christ's Gospel, under the ten persecutions of the heathen Emperors; and this is notorious, that the worst Emperors were Christians greatest enemies, seldom so much the zeal for the Gods, as envy at godliness, and coveteousness of riches, the Christians goods filling anew the empty treasury, exhausted by intemperancy of the Emperors, or covetize of the Courtiers, who were, as they ever will be, like graves never satisfied; and is it not strange, that a crucified God witnessed by the meanest of men, fishermen, should be thus followed, and should break forth so gloriously amid flames and furies of all sorts, yea every thing that was projected to over-throw it? the demolishing of the outward Temples, the burnings of Scriptures, made but more pure, though more secret meetings otherwhere, and made them get the word into their hearts and memories (for it is wonderful what labor the ancient and primitive Christians took in getting the Apostles writings by heart) where it could never be extinguished, but they should reap a greater light by it; and thus God tried his Church, purged and purified it, by sufferings for three hundred years; and not a Bishop so called of Rome or Pastor of the Church there in all that space, but either suffered persecution, or died Martyrs; yet even amongst those Emperors persecutors, God left himself not without witnes; and which is most notable, in the worst man, and cruellest to Christians, *Maximinus*, who at last glorified the God of the Christians, and by new laws gave them immunitiess and privilidges above other men, who before were thought worse then brute beasts. *Trajan*, *Antoninus*, and others by providence in his mercy, moderated and slacked of their fury to believers, but never acknowledged him as this man did, though he might back-slide; but this is notorious, that the *Pagans* alwaies believed God hated, or the Gods hated the Christians because they saw them afflicted, judgeing eternal love still by temporal favour; and now to shew and evidence his power in that also, and to convince the Enemies of this truth, he not only gives a respite, a cessation of miseries and afflictions; but to shew his power all one the suddain by unexpected waies, raises up contemned Christians to Thrones and Scepters, and all the grandeur, ~~of~~ of the world are but the rewards of religious purity to the true God; and now the poor banished soul, ship-wrackett and lost as it were, is brought to a haven of rest; now Churches built; now who so glorious as the greatest sufferers? and in these daies of tranquillity, the fence of present joy did more then counterpoise the sufferings past; the poor Bishops are now the Emperors fathers, endowed with livings; and if fame lye not, The *Romane* Bishop stole what *Constantine* never gave, but the Decree was not unsealed till a long time after, and this is *Constantines* pretended donation; but sure it is, *Constantine* did highly honor all the worthy ministers of all the Churches, in whom the Virtue, Piety, and Doctrine of Jesus our Saviour was exemplar; and now there is a new face of the world, and surely the Christians now think themselves very happy, their Emperor a Christian; the power, glory, riches and honor of the world theirs; now peace, now plenty ensue, and what can their hearts desire that they enjoy not? The Dragon the persecutor is now gone, and what doth reason suggest? Now they will serve God gloriously; before the service was mean and contemptible, scorned by heathens, in private and secret, in a private house, nay Barn, Stable, Cave, or Grot; any where so they might but serve him at all, to live and praise him was all they looked for; they were in *Egypt*, in bondage before, the whips of the Task-masters were upon their shoulders, or at best but in the wildernes, but now they enjoyed *Canaan*, the land of rest, now build the Temple, hew the stones, lay the foundations, and erect not only chambers or lodgings for the *Priests* and *Levites*, but the Singers, the Porters, and all the train of due and orderly service, and hearts were willing to the work, and then purse and hand was ready, and now all on a suddain the whole world is turned Christian, and all the provinces of the *Romane* Empire crouch under the Standard of the Cros; and the highest Purple adores the woaven Coat of our Saviour, and now the Pagan, according to his principles worships the rising Sun; Thrive Christian, and I am a Christian, but otherwise adue Christ, and God, and all.

But they might go far who had such excellent leaders, when their Emperor and Princes shewed in their exemplary life the power of Godliness, so that the difference was evident betwixt the sincerity of Christianity, and the vanity of Idolatry; for its reported of the Emperor *Constantine*, that he was not so much a Conqueror of his enemies, through the power of faith, as of himself; all passions subjugated to the rule of his



Saviour; he eat to live, and lived to magnifie his Saviour; and knowing he could never attain the height of that perfection which his Saviour had, and he aspired not unto; yet as he had commanded, so he imitated and made him his rule and his pattern; his recreations were divine Contemplations; and his private discourses betwixt God and his soul, were as Paradise to his soul; yea, such was his diligent and awful constancie, that his Pavilion was his Oratory for divine Service, he would not neglect his hours of prayer, amid the greatest dangers and troubles of warfare; yea such was his zeal, that you could not distinguish whether he were the better souldier, or most excellent Preacher; and who would not haste to be a Convert in this season of blessings? and as his care was so wonderful for the soul; he neglected not to put in execution good Laws, and where need was, to make new; his care was for the weal of his people; he sought his peoples good more then their Goods, and approved himself the common father of his Country by his sea of bounty, which all pertook of freely; the Orphans not onely educated but maintained; to which he not onely employed the publike money, but out of his private Treasury he afforded latgely; he would relieve the necessitous begger, but caused to be sought out the modest needy Wretch; and comparing qualitie and necessity, he fitted and proportionated his bounty accordingly; so that to eminent vertue, he hath given entire possessions; yea, himself sought out the desolate, and afflicted; and all his Laws now ralld of the radiances which Conversion had generated in his soul, and were not onely moral, as agreeable to Nature, but also Christian, as favouring of that enlightenment which our Saviour in his Preaching had given to the Law: and surely here was a glorious Cont, where the Prince himself gave such Examples; how did the Nobles, the great, rich and powerful follow, especially when the wise Emperor had fained a little inclination to Apostacie, and disgraced the fawning parasitical and hypocritical Courtier, and exalted and entrusted the faithful to Christ, though not obeying the Emperor; and it was indeed admirable, all was wonderful; the Fathers of the Church were the Emperors Council, not out of their ambition, or his necessity, but to shew, his actions feared no Monitors, and his Counsels should be questioned by the strictest Christians; and what might now be feared, was then reverenced: Thus did the Church flourish, but see here the devil was not conquered, though his Agents were; he now must go another way to work; a Wily Serpent he is, & can turn himself into many folds, and therefore he now attempts new ways of tortures & afflictions; and when the forraign enemies of the Church are beaten down and conquered, now he makes them enemies one to another; hitherto the common calamities had hindered the growth of divisions; the Sword was the Lords avenger, he now suffers another; nay, Prosperity ushers in Pride, Pride Ambition, and that Envy as well as Covetize; and out of all these springs up Arianism, the first great and spreading error to usher in that fatall Apostacy so long before prophesied; and if we look into the ground-work of it, or the foundation, it was Philosphy, or searching into the secrets of the divine Decrees, and the reasons of them, the *Arcana* of the Trinity, the extravagant curiosities of able, idle, and yet active wits, set on by the itch of vanity, and singularity, from the ignorance which they see in others; and the applause of novelty from such as count all things wondrous that is above the spheat of their own capacity; and this was the first comet of the kingdom of darkness, which in its growth threw darts of plagues and poisons insensibly into the hearts and veins of the professor of Christ in his glorious condition; which to remedy, there is by the Emperor a general Council called; (note, that was the then unquestioned remedy) wherein though condemned by the power of mans Vote, yet nevertheless continued his strength, and was not vanquished; for the Emperors, and all at last submitted unto this rage of the flood of error, untill God in his time, who ordets the rise, and fall, as lasting of all things, turned the stream into another channel: after by the Synod of Jerusalem that heresie was tollerated, by absolution of the Patron, which the Council of *Nice* had condemned; and by this tract of time, sin growing speedily, the Papacy began now to lay another step to the grand defection; for the pride of the Pastors was now grown so great, and the revenue so eminent, that the Fathers of the Church fight for the Papacy; and if the man-childe born, the Church, went into the Wilderness, that is, no sooner did the Lord cease afflicting his Church, and gave riches, and glory, and honor, but the purity and integrity of Ordinances ceased; and if you would finde Christ anywhere, it was among them that were either in the Wilderness, those holy ones that were through ascerbities

acerbities past, so taught the vanity of the world, that nothing could bring them to the trial of the world again; or those, that though they were in the City, were yet as in the Wilderness, such as over whom the glories of the world had no power: Then surely now the Church was not to be found, except the two witnesses of the Lord, I mean the two Testaments were his Records; for if the Pastors were thus changed, how might the people err? And surely from this time I count the Prophesie of Antichrist began to be manifested, and the Apostacy and great defection to appear; for immediately under the reign of *Theodosius* the younger, when *Alarick* the *Goth* subdues *Italy*, and takes *Rome*, *Sosimus* then Bishop of *Rome* affects the title of *Oecumenical*, and claims as proper to the Bishop of *Rome*, That nothing in Ecclesiastick affairs should be ordered without his consent; the first linke of the chain of perdition. A non after rises the *Nestorian* heresie, then the *Eutichian*: and thus the Lord punishes his Church now; before, the evil was the *Sword*; now *Error*, the greater plague of the two; then *purity* increased, now *prophaneness*; yet I cannot say so much *prophaneness*, for even the lives of the then Hereticks are a shame and condemnation to our present Christians; yea, even in the defection of the Saints, how many humane excellencies appeared! what *austerity*; what *voluntary poverty*, singular *chastity*, admirable *constancie*, unparallel'd *charity*! And thus grew the glory of Christianity, so that the Barbarous Nations, who were the scourges of Christians, were the admirers, and in some kinde the imitators of their piety; and it pleased God there was yet some wheat amidst the field of the Church, excellent in all the qualities and ornaments needful in a disciple of our Saviour; by whose industry and faithfulness great part of true Christian purity was not onely continued, but also propagated, as well as errors and heresies in great part vanquished; so that the splendor of the Church of Christ was great and powerful; and so much the more, as for that the Church-men had now made some *Querries* concerning the power of the Emperors over them, as being the servants of Jesus Christ. And also of their power over Emperors, the Emperor being but a believer, they officers; he set apart, yet but for civil ends and Government; they for sacred and divine: they begin the question with the power of Calling, confirming, presiding in, and adiudicating Councells, and ended in dethroning Emperors; They who undertook the contest were wise and able; and though they opposed a powerful, yet it was a devout Emperor, and shaken with homebred and intestine afflictions, frequent in the decaying estate of the Empire; this was heightened by what was then called *zeal for Gods Altar*; after that branded for spiritual pride, and accounted the highest step to Antichristian error, opening the way to what ever followed with ease, placing an especial sanctity in ordination, from the Deacon to the Patriarch, and so to the Pope gradually; and in him, not onely to primacy, but supremacy; so that what was before evidenced by faith, and holy conversation, was now solely attributed to imposition of hands; this was a holy unction, an indelible Character, marking who were Christs; God left not himself without witnesses against these growing errors, in the several Ages, wherein they were propounded to the world, which gave some stop; but one error ushering in another, strengthened themselves; so that at the last they shut truth out of doors. But to speak of the particular errors upon the *Querries* arising among Christians; First, concerning the written Word of God, and word in general; of the written Word how we are to finde out the sense, and know which is the true letter, whither it may be translated, and whether a fit Judge of controversie: Secondly, if not, who; concerning traditions, and the way of knowing them, which are Apostolical: Thirdly, the properties, office and marks of the true Church: And so Fourthly, of the ground of faith; upon all which, with many more necessary and useful matters, the whole frame of unnecessary superstitions, vain, sinful, nay damnable doctrines arising in future time was founded: I cannot (at present at least) intend any discussion, nor may it take so well with the generality of men, to have one whole study and profession was the Law, though a Christian; which general profession I esteem a full liberty to *Query* any so called Ecclesiastick, or Church controversie; but that indeed being not the main of my intention, I shall apply my self to what is the scope of my undertaking in that way: The God of heaven, whose aid I implore, shall direct my spirit. The Bishops of *Rome* now labour an addition of believers in all Countries, and not onely *France* and *Almaine*, but even the remotest Islands of *Britain* receive the truth; the Church was to be univerſal, there

was a word of truth for it; But as the Emperors and Princes of the world had by several experiences found out the best and quaintest waies of stretching their subjects purse-strings without cracking, to be the gains and in-comes of suites and controversies, which being the vents either of malice in prosecution or victory in the issue, and the party overthrown, though miserably complaining, were alwaies remediless, generally unpitied, for it was done by Law, the rule of Justice; The Bishops of *Rome* now begin generally to challenge to themselves, not only for the honor, but for the necessity of order, special government by way of judicatories, at first only of matters arising within the precincts of his government as Bishop of *Rome*, but after it extended by way of supremacy (the great injustice of all Princes giving colour thereto) to pluck away caules from the remotest parts of the world after the Bishops had settled their powers, and by them courts in any kingdom, realm or nation; And from particular controversie between person and person, Bishop and Bishop, he at last became the umpire of the controversies of Kings, and by vertue of the necessity of a final appeal, he gave away kingdomes as he pleased, as the annals not only of *Germany*, but of *France* and *England* do specially commemorate; and now the name of universal Bishop would not suffice, nor these large temporalities bestowed upon them by Princes, but they seise the Cities of *Romandiola*, *Ferrara* and *Bononia*, and much more in the vacancy of the Empire; nay the little Horn would not rest so contented; but the Emperors oppose; the Popes now produce the grounds of their actings, partly from reason, partly from Scripture, yet both agreeing in the substance, the necessity of an umpire in the Christian Churches, that this absolution must rest in the Church, whereof Christ was the head, *Peter* his Vicar, and the Pope his, that all the kingdomes of the world were now the Lords and his Christs, that he gave them to whom he would, that this his Vicar was the most fit person, yea the only fit, if not designed, for he was the common father of souls, had the care of the Churches good upon him, that not only all were alike to him, but he bound alike to all the obligation too, the Church only excepted. This wrought conscientiously in many, but actively in most, though suspected of self-seeking in some, covetize and avarice being the common error of great enjoyers, especially in high and ambitious spirits; whereby the Pope was not without his Champions against all opposers; and as most pretenders do, they did some justice extraordinary at first; but when the notion of infallibility was accepted, who could oppose? now the Church was in its ruff, and now the whole world turned religious, and all Nations, especially in *Europe*, were become so great admirers of Christian profession, that they erected Monasteries, Frieries, Nunneries, and men and women were engaged on all sides, all worldly obligements neglected for the service of their Saviour, husbands forsaking wives, and wives husbands; Children and Servants leave Parents and Masters; nothing so secret which confession could not unlock; there was ease and plenty; so that the Popes chair having so many feet, it was in no great fear of falling; but least the people should discern this, the foundation of all is laid upon the indubitable word, so called of God, of which they are the sole Expositors, and this by way of analogy or similitude betwixt the old and new law; Therefore they hold forth, that as among the Priests one was cheif under the law, so also under the *Gospel*; and as the Priests, so their lips must preserve knowledge; as there was a bloody, so here was an unbloody sacrifice; and as there was a Temple, so here another Church, inferior Churches, as the Synagogues; the times of sacrifice are called Canonical hours, and all the officers and offices of the Jewish frame, are now brought into the Church, and though acknowledged ceremonial in themselves, and so passed away, yet the mystery of them opened, and the end relating to the service of God and his Christ now, as before to God under his name *Jehovah*, was allowed as necessary for his better service; and as the glory of the second Temple was to exceed the glory of the first, so the maintenance of the ministers of Christ, and the outward lustre of service, was to exceed it; but that they might fulfill the measure of iniquity, they bring in the use of Images first into the Church only, then for private devotion; this was contrary to the *Jews* order; but they answered first the *Jews* made pictures of false Gods, they of the true; the *Jews* in the shape of beasts and other Creatures, these of man, and that after God appeared in the likeness of man; the *Jews* of God whom they had not seen, they of the Lord Christ; the *Jews* worshiped the stock, the representation; they had it only for a remembrance; but these admitted; now follow miracles,

racles, which they call the sign of the true Church; but that they might the better up-hold their Monarchy, they look not only to get some particular, as the most ordinary and useful causes, falling among men into their Jurisdiction, as probate of Wills, allowance of Marriages, tryals of Adultery and Fornication; but they labour to frame the Civil State according to the mode of their Ecclesiastick Hierarchy, whereby the one should stand as a Bulwark to the other in the day of opposition: The word yields the foundation to reason, and reason of experience (joyned with the interest of practicers) confirms the the word; and even from this time there was the foundation of an intire and universal Monarchy among Christians laid; for it was supposed as truth, that the Church of the Jew was the pattern and Type of all the Christian Churches, that they were all to live as Brethren, both under the Ecclesiastick and civil Regiment; yea, that not onely between beleivers of the same Nation, but of the remodest parts of the world, there was such a tie even by the right of profession, that for their relief we ought not to plead too strict a property in our goods, but freely to communicate to their necessities, whether the same were by reason of persecution, or famine, or such like, or other accidents of providence, and founded indeed the whole fabrick of their Government upon the rule, according to the *Jewish Model*, and by degrees exterminating those Laws which were spied to be disadvantagious to their interest, and for the absolute power of Princes, as they saw occasion, from the troubles of the Empire, the weaknes or religioulnes of the Emperours; indeed every thing according to the order of times made way for the accomplishment of the intended vision: But this was no great piece of difficulty, for the nature of the matter led them easily to it, as it seemed; for the Laws even of the *Romanes*, from whom all Nations almost had received their general rule of Government, however at first mishapen, and rude, yet after polished by modelizing according to the rule of the *Jewish Tables*; and not only so, but of many or most of their judicials; for indeed, where can we have Laws more agreeable to natural equity, then the Almighty wisdome there proposed; so that the *Arabians*, *Egyptians*, *Asians*, yea, and the only not barbarous Greeks, founded or framed their generals upon, or according to that incomparable order, and in their ministrations did not much differ from the Hebrew originals; but this premised, that the whole body of Christians was but one Commonwealth, and that under the head of all immediatly, the Lord Christ Jesus; it seemed to follow by this, that he must have his substitutes on earth according to the nature of men, one as Priest, chief for the service of him, to govern these men as Saints; another as King, who was to rule and govern them as men, according to the Law of God in righteousness and holiness; but all to be bound and loosed, as I said before, by his mouth only who had the key of Knowledge, by a now received infallibility, which was without much difficulty effected. The Bishops and Clergy-mens lives being yet not generally obnoxious to scandal, many yet retaining a great deal of exemplary piety and purity, yea even in the bosome of the Church of *Rome*; for although it be easie for particular and private persons to rush suddenly and immediatly into great error, yet for Commonwealths, or the publick Governors, or common Societies, 'tis not so; for what they look at, is Supremacy and uncontroleable Government; if so, the jealousie which people ever have had of their liberties, will cause them rather to introduce things by degrees, then at once, and that so by little and little they may with ease obtain what by seeking at once they had utterly lost. Thus did temporall Princes (for so we must distinguish while Bishops are become Princes) by their Subjects, and thus did the Popes by them; but it is now fit to leave the general discourse, and to reduce matters as intended, to a more narrow compass then the consideration of the whole body of Christians, and look at specially this Nation of *England*, which now having received the Faith of the Lord Christ, whether under King *Lucius* primarily, or under any former, whether first preached here by *Joseph of Aramathea*, or any other, whether Apostle or Disciple of the Lord, but after more generally allowed, spread, or promoted upon the coming of *Augustine* the Monk from *Rome*, I shall not controvvert, but allowing every man his opinion by whom first introduced, where first preached, and such like; I shall take that only up which none will deny, which is, that about the time of *Lucius*, it was by publick and Magisterial Authority first allowed, and hath more or less ever since been continued, embraced, and followed by some in this Nation at all times, but generally by the whole Nation, though

at first the over-running of strange Nations might suspend the splendor of it ; onely thus much I must say , that its evident by history , that the Christian Religion was here entertained and settled long before *Augustine* , and that there were Monks particularly of *Bangor* , who professed Christ , and lived according to the Discipline of our Saviours Doctrine , which grew now inconsistent with the dignity of the *Romane* Bishop , and others with him , and all of the Clergy in their degrees ; for now for the honour of Christ , as was pretended , there was to be more order , as it was called , to be obserued among Christians , which was meant of outward duty and obedience to the Popes Substitutes , in every place by the rule of gradation ; for as the Pope represented Christ , having his power from him ; so all Bishops and inferiour Clergy ought to have and give their due respects from the people , and each from other , according to the places and trusts by his Supream Holines (whom they more or less immediately represented) reposed and impos'd in and upon them . This observance *Augustine* the Monk expecced ; but the *English* , or rather *British* Monks found not this in the Doctrine of the Apostles , nor presidents of the Primitive Church ; truth , they found examples of paying more observance to holy men , then *Augustine* required or expecced , but no way allowed , much less sought by them to whom it was done , the Lord Christ never had nor required it , but himself washed his Apostles feet ; and his Doctrine upon the decission of this case in controversie was far otherwise , *He that will rule , let him be servant , be not like the Princes of the world* ; but yet this as most cohering with naturall reason and the custome of Princes (and that the decree might be fulfilled) was accepted by the Princes of the earth ; and now the Crozier and the Crown went together in *England* ; for the Princes were generally zealous of the Law , after once admitted (it may be politickly , but I judge not) although that from the power of the *Romanes* here , so long ruling , there was a foundation laid of good and just Laws , and holding much consonancy with the *Judicials of Moses* ; yet the many barbarous and irrational customes and usages , especially those that were unchristian , were by the Kings , with the consent of their people , abolished and extinguished ; and there was one generall Law received , which was , That nothing was to be done , taken , or holden for Law , which was contrary to the Law of Almighty God , meaning the Law of *Moses* , which they took to be the speciall Rule of Morall Wisdom , and if once sanctiated by the Bishop , undenyable , if not infallible ; and though it is like as in all other Ages , and places , the alterations of old and long received Laws , and introduction of new , was difficult and dangerous : yet this Age being a warring Age , and Souldiers little book learned , and yet the Princes of the earth , the vulgar people were far less , so that the many followed the mighty , and obedience was more pure then , then now , though more easie to be corrupted ; so that the Kings beleeved the Bishops , the Lords the King , and the people the Lords ; and thus it was that whole Nations even on a sudden became professors of Christ , I say not Christians ; and though the Monks of *Bangor* would not , seeing the pride of *Augustine* , submit to him : yet the King converted , power effected what prayer would not ; but this bred a worse stir after ; for these Monks still living in their simplicity , and preaching faithfully , requiring nothing , but being contented with what the people gave , were more pleasing to the people then they who were not only imperious and proud , but covetous also , so called , in requiring and enforcing Tythes , according to the *Mosaical* Law ; and this was tryal enoug' , for generally men love to be of that Religion that costs them least : Parishes were not yet known (they had not in these dayes , nor many hundred years after , such clear light in Christ's Discipline , as to finde that civil prudential thing in the book of Religion) but men gave (who would give) their Tythes to the Ministry ; these in each County , or Dioces , or Precinct (notwithstanding all learned oppositions of the so called Clergy) were treasured in common : the Bishop , if any were , as the High Priest , or Priest , had his portion or Tythes out of the whole , and the Pope was to have his Tyth afterward , called *Annate* , or yearly Offering from him , besides first fruits paid originally by every Minister or Monk (for they then generally were the Ministers , though not only) to the Bishop upon his introduction , and the Bishop to the Pope , all pretending still after the pattern of the Jewish Church . So also was it in their Courts by way of gradation , admitting appeals , and that at last to the Pope himself , which though upon the first ground each Prince ought to have allowed , yet some Princes finding the evils in time by alienating the hearts of their Subjects from them , subju-

subjugating purse and person to a stranger; for so high these Popes at last went; other Princes spying the rents in other mens Dominions, avoided it in their own; so that they either never allowed, or sought to avoid, if before admitted, such appeals; upon this nevertheless at length sprung up controversies, not only between the Pope and other Princes, but also between the Princes of the Earth, in the respective Nations of the world, and the Bishops; both also using the same arguments of duty and allegiance; the Pope by reason of being the Vicar of Christ, the King the same; the difference was, the one was in Spirituals, the other in Temporals; this hath made the Bishops not only combine against their Sovereign for the Popes Cause, but even the people; for some pretending conscience, have served the Popes and Bishops lusts against their Sovereign, and many times either for necessity, or necessitated by superstition, against their own as well as the Kings Interest: And thus by degrees what the Spirituality, as they termed themselves, had obtained in other places, is granted in *England*; and the marvail was not so much at what was granted, but that no more was, when even the Crown it self was holden in homage at last of the Popes Holiness so called: And now were the people all fitted to receive even what should be imposed upon them. I cannot but observe again, that these Ages were very ignorant, so that the Church-men for want of others, were without scruple, commonly, if not generally, admitted the Seats of Judicature, in the ordinary Law Courts of the Kingdome, and were the prime men of the Kings Council, so that there was nought to hinder, but only the pride and power of some warlike Noblemen, who in emulation still opposed the Bishops; and as the Age grew more knowing, began to stickle against them. But now the pride of *Rome*, come as it were to the highest pitch, even as all other things have their rises, stops, and declinings, even so had this; but that it might not fall alone, nor want strong supporters against the pride of Princes, which *Rome* thought would be ready to push at her, she drives on a fury in spurring the people to depose their Princes, upon her Excommunications; the dire effect of which, all Christian Nations so called, felt more or less, though more especially *Germany*; so this our *England*; and truly, the people might well be apt enough to it, for that most Princes had, as their Rights of Prerogative, taken from all but their Souldiers, whose swords upheld them in their Majesties, and so they upheld them in their acquests, be they good or bad, and from the Priesthood, then generally so called, whose superstitions shold work an awe upon their spitis, all that could be calléd an immuniti, much more the Rights of a free people, and that people should be slaves to their Prince, is not found in Reasons Lesson, and that any prime Nation in Europe was the Conquest of any of their Kings I read not; true it is, *Castile* conquer'd all the rest in *Spain*: so the *French* were reduced into one; so others, and so our *England*; the conquer'd yet in length of time enjoying almost like grace with their fellow Subjects; but with us in *Wales* we were made one: This caused oft and dangerous tumults, wherein still a Priest bare his part; but things of long date being uncertain, we shall now come to look at the last great mutation in this our *England*, and carry along the busines of the Commonwealth from the time of *William* the first, surnamed the Conqueror, as principally eying that, but with a reflex upon the matters of the Church, as being not to be neglected in respect of their own nature, and also for their necessity to the explaining the matters treated of; and I the rather chuse to pitch upon that time, because the histories are more clear, and from that settlement do all the grand Querries flow which are now discussed by so many wits, and so many pens, wherein yet I shall be brief, as formerly, though laying the plot to the generality of the succeeding matter. *William* the first, commonly called the Conqueror, being the Bastard son of the Duke of *Normandy*, having indeed no title at all to the Crown of *England*, (I cannot say usurps, he fought against an usurper) yet layes claim to it only under a pretended and invalid promise of *Edward* late King of *England*, and with his Comrades, to whom he had promised shares in his purchase, He from *Normandy*, and with *Normans*, that is, *Frenchmen* of the Country, Province, or County of *Normandy*, lands in *England*, fights the then King, and slayes him in the Field; and the *English* distasted at former Kings, and it seems doubtfull to whom the Crown belonged, and no one publiquely laying claim; wherby it is probable the race was worn out, or utterly disheartned: *William* soon settles himself, and by agreement with the *English*, to keep the Laws, or rule them according to their Laws, he is accepted as King; but as to avoid war, the strengths

strengths of the *English* being yet in no considerable manner broken by the one battel with the slain King, he pretends his Title of Donation, Adoption, or what you will call such a pretence ; yet he, as he found occasion and opportunity, not only strengthned himself, but weakened the *English*, and that insensibly, depositing all Bishops of whose fidelity he was not assured ; and for settling a new form of Government upon, yet exceeding prudent grounds, which was the so called Tenure in *Capite*, or of the Crown, he by cutting off the Males of the chief Nobles as Traitors, disposed the Females where they were, in marriage to his *Normans*, and the other upon seisures, he granted, to hold of him, as of his Crown ; thus he wrought his own ends every way ; for now he hereby takes the power of the Kingdom, and the adherences of the ancient Nobility into the *Norman* Race ; his *Normans* now, as by agreement, and according to the rule of their Nation, take all from him, who is Lord paramount. Thus all the land in *England* is holden of the King, and by the equity of the judicial, he holding all of God only, and so the land was absolutely enslaved, and the title of warlike conquest is achieved by a quiet bargain ; for this marriage of the inheritrix, all other objects taken away, cast the tenants eyes solely upon the enjoyer of their Lady ; now this way was prepared to before, the kingdom being formerly divided, not onely into Counties, under an Earl, Consul, or their Sheriff, but each County into their Hundreds, and those subdivided into half Hundreds, and those again into Tythings ; the most admirable Law that ever was in point of prudence directed even by the infinite Wisdom to the *Jew*, and approved by these men, as obligatory to Christians, or so pretending ; these in their gradations all had their law from their Lord, and held of him, most under an oath, and that according to the nature of the Tenures, whether by homage or fealty, onely with a saving of right to the King and other Lords, and that Lord he held of the King : nay, the wife Bastard had a further reach ; for these Land tenants were his *Militia*, and none else were now suffered to have Arms, so that his *Normans* being conveniently disposed into all parts of the Nation, and the Nation thus engaged by these courses aforesaid, being more warlike then wise, few then knowing more then the Priest told them, the work was readily effected ; and so much the rather, because the Nobles had Knights held of them by the like service of attendance in the wars ; some holding Honors, and some Mannors in subordination ; and these again had Freeholders for the provision of their houses, which was called the service of the plough ; And thus all being distinguished into their orders and ranks, there was nourished by these mutual dependances, love and duty, service and sustenance ; the Noble man being at Court, the Lord or chief Knight in the County, the Patrons of the Yeomony, and all yet held in chief of the King : This prudent settlement holding a correspondence with the ancient *Jewish*, and no difference from the later *Romane* Government, both here by severall Governors and Governments made native, was very facile to be effected ; and the rather, because that our rocks of offence now, were no stumbling stones of offence then, but the foundation-stone of the ladder of the highest preferments ; for the Kingdom being settled upon a Military frame, yet wisely observing the rules of humane Arts, Wardship and Marriage, the now or late Bugbears were thus laid and reserved by that discreet Prince, following so justly and evenly one upon the neck of another, by them accounted demonstrative reaon ; that truly his enemies approved at last what his friends denied ; that is, the *English* admitted what the *Normans* spurned at ; for as I find the Kingdom being put into this Sword posture, it was thought meet that the Tenants of the King, who were not fit to do him service, should be under his tuition ; and who would and could so carefully provide, both for their training in warlike exercises, or dispose them in marriage for his safety, and their well-being as the Prince, whose strength and security they were to be both in war and peace ? so that Lords to their Knights, and they to their Esquires, and all to their Soccagers ; so that Soccagers, or Freeholders sought a Tenancy in Knights Service ; and they by Knights Service sought to hold of the King, not in *Capite* only, but by the greater services of Petite and grand Serjeantie, being so much the more or less honorable, as they were directed more or less immediatly to the person of the King : And I do not finde that King *William* did create more Lords then there were Counties ; for he observed his plot of Government, as I may say once for all, intermingling the old and his new with such a fit contexture, as the first glance or present witnessesse did not easily discern it : Now as he laid his Military part wisely, so did he not indiscretely settle the Civil part, for that he
also

also ordered, that as the Commonwealth was but all one great family, and though in regard of the multitude of subjects, or children, it was necessary to see and hear by others eyes and ears, and so to answer and determine differences: yet it was of necessity that all should yield obedience to him, and render him a final account; and therefore he disposed not from himself the ultimate and last determination of all, or any cause, but that they might appeal to him, and that not only in high and criminal matters, concerning his Crown and Dignity, the life and honor of his subjects, the original due object of the power of the Court now called the Common-Bench; or of his Treasure, the object of the Court now called the Exchequer, or the Court concerning matters of the Income, Profit, Revenew, or Treasure of the King: But also of the differences betwixt party and party, the object or subject matter, call it what you will, of the power of the Court now called the Common-Pleas; which for ought I can finde authentique to convince me, had all one officers, which were not many; all one Process, which was a special Writ for appearance, and a trial before the King, or such as he appointed in his Court; for the King was to be always present; and there was also help in case of Equity by the Kings Chancellor, in matters of the *Summum ius* of Law, according to the common Lawyers phrase, or severest opinion, according to the rule of pure conscience; that is, doas you would be done unto, or like a good Christian, according to the Episcopal and Church-mens equity in the tyme of their Regiments; now this foundation laid, which offered benefit as well as Law to the people, who had hereby remedy against the greatest oppreßions of great men, or Judges, in the Courts of the Sheriffs, or Lords Courts, or Hundred Courts; which all at first submitted by way of gradation to each other, all to the Kings; and so the Courts in Cities and Boroughs, and other places incorporate, as also Franchises and Liberties, which were the evident marks of conquest, and granted larger, or stricter as the King pleased.

Now the King plots his own settlement; first, as being a *Norman*, that is, *French*; he wills all our pleadings to be in *French*; for he being as chief Father of the Commonwealth, to see to all, ought to understand it; Next, he ought especially for offences criminal, or trespasses of force voluntary, to have the punishment of the offender, as a disturber of the peace of the Commonwealth, as well as the particular party to have reparations; and therefore he brings in, together with Appeals, the ancient usage of *England*, which was the challenging of a man to have committed an offence, as of treason, murder, rape, felony, and the like; a kinde of suit in the name of the King, called an Indictment; and truly all the reason of the introduction that I can see, was to advance the end of the Kings gain; for here the King hath all the gain; all the goods of the party (at first) from the day of the offence done; truth, now he hath it in appeal; but it was not so; for this, the old true tale of *Kems* freedom will be known Evidence; for they oppoſed this part of prerogative; and then the father to the bough, that is, to be hanged upon the arm of a tree, the usual and ready way then of dispatch, and the son to the plough, that is, to the improving the inheritance left: Concerning the common Law, Prerogatives of a Prince, or what the Laws of *England* anciently, as by the right and light of natural knowledge, granted to their Kings, a certainty of land of the Crown, Mines of gold and silver, Royal fishes, lands deserted of the sea, and of them who died without heir, as the prime person in whom the honor and glory of the people rested, I omit to speak at present: Truly that this *William* used Parliaments, I finde not, though others do; for it is evident to the world, and he that is not blinde may see; he to quiet the people, pretended Title; but his intention was to make it his absolute conquest; he therefore calls Councells, where his Lords were present; they do what his Will is, and there is an end; So that grant it a Parliament, or National Assembly of the Estates, yet it was but to grant or enact what the King desired; his *Normands* had liberty to speak their will, what English man durst oppose? but the acts of his successor fully demonstrate this; who destroys thirty towns and Churches to make a Forrest: the Monks of the time durst speak, but who else? So that now it was evident what Title he claimed by, pretend he what he will; for the King had still his pretences; truly the *English* were now in great streights, they saw their Laws utterly abolished, and their lives and estates to lye at the Kings mercy; there was no remedy to complain, who durst? The Bishops yet notwithstanding something interpose, but their mouthes are stopped by a command from his Holines; for people must not rise against their Prince, but at his will; and fill his coffer, and you have his Crosier at command; for *Rome* was

now at the full height of wickedness ; but God taking away this sacrilegious Prince, he soon opens a way of comfort, to the almost cowed *Englis*, giving them some means of revenge by a roiall contest or a quarrel for the Crown: this, and matters of like nature settled, there now ariseth a greater quarrel, which hath continued even to these times, though with divers parties, and upon several grounds; and that was betwixt the Lords and the King; it seems God would have the *Englis* free, and though he chastised them, he would not forsake them; for he makes their enemies the chief assertors of their ancient Liberties; for these Lords finde now that they had not the same free priviledges their Ancestors had and claimed; their births had now made them English; & of sharers in principallity, they were made meer, though greater Subjects; The King Lawyers be like had found some flawes in their patents, it may be they had done some wrong to their Tenants; and were complayned of; and the King to anger them, that they might forfeit their too large liberties, did the poor men right, the greatest vexation and Soul or heart-grief a proud great man can have; but be the ground what it will, many of which are evident, and arising as before is said; The contest grew high; there were things called Parliaments assembled, to the end to determine these differences, and in them divers good Laws tending to reconciliation were enacted; but what was the effect of force, ceased in execution, when the cause was removed; and the Lords armed against their Princes; and truly their Tenants took part as the rest did, they feared the saving of their faith to their King would prove the forfeiture of their lands to their Lords; and now what was intended for the Kings safeguard, was his ruine; the most immediate Lord carrying all the power, the superior Lords all along were strangers; So vain a thing is the most prudent settlement of men, if Divine providence affords not success: But this still remains a sure foundation, good Laws are ever the same, though the badnes of men may enervate and weaken them, yea oft times invert them; but still as differences grew higher and higher, Parliaments were the means of quieting of all, which doth clearly evince that those national meetings were, and are, not only the most natural and prudent means of compposure of civil differences, but also proper to this Nation, the dae rights of which were alwaies contended for; This contest wrung away from the King those two great Charters of privilege called *Magna charta* & *charta de foresta*, being the express limit and boundary of the Prince, that he might not upon occasion fly out after upon his title of conquest; the Subject matter of them are evident to each mans view, they are generally consonant (none contrary) to right reason, they are restraints of the Princes absolute will, or of Governing according to his own lust, and declarative to the subject what he might trust to, establishing indeed the right of property, *meum* and *tuum*, against that high point of levelling (which the Princes of this Land, as of all other Nations sought after) not only the great men, Mountains, Lords, but even the Mole-hills, the meanest Subjects, to the nod, beck, word of this man God the King; The Lords, and others saw this; wherefore they bound the King by oath, but what coard is able to hold a covetous, much less an Ambitious spirit? first therefore they plead duress, or constraint; and I must ingenuously acknowledge there was force against force, another King confirming it in his minority, or under the Age of twenty one years; he thinks this a loose to his oath, as if he were old enough to vow, but not to perform; and to these refuges of the Princes the Lawyer could give excellent colours; and now the master-piece was to set the work afoot in a legal way, and the Judges of the land were to determine this part; they were sworn to the King, and therefore they must give their advice and afford their best assistance to him; the histories publike say it was an enforced opinion, whereby they annihilated all the principal priviledges in the grand Charter, putting at once the sword and purse of the kingdom into the Kings hand, upon necessity, making him to be judge of the necessity, for the great trust reposed in him as King, for the benefit of the Common-wealth; and of this faithfulness there must be no doubt; this was in the time of a weak wilful yong Prince, so that the Lords in Parliament (for who else durst budge or stir?) question the Judges as betrayers of their trusts, and the libertties of the people; and make them examples by hanging them at the common Gallowes. There were then men whose judgements and opiniohs were as absolute for this King and his actions, these men and their determinations as might be, who cried out upon the Lords and the Parliament, as Rebels, Subverters of the Law, the settled Law, and that by the opinion of sworn men the Judges, magnifying the King

as one that did but intend to take away the Root, Spawne and seed-plot of Rebellion ; for while a power of contest or visible cause thereof remained (which these Charters had often manifested themselves to be) there would be no visible security for a settled peace ; if the Lords might judge of one right or privilidge of one part of the Kings prerogative, why not of all ? if so, as good be no King ; this was the Court dialect, and of their dependants ; and this controversie ceased not till at last the King had ruined all the power of the Lords, and now all was safe ; the Kings therefore to divert the stream of affection in the people, from seeing into the invasion of their liberties, propound Wars in *France*, wherein being successful, they please the people with small things, and take away great, but especially curtail the Lords of that absolute dependence which was upon them by their under-Tenants, granting the use of *Magna Charta* and the other Charter as Law, but breaking it upon all occasions in times of War, and then complying in times of peace ; and truly this was the State of *England* for the space of about three hundred years after the Conquest.

But you will say, why did the Pope suffer this ? why did not he as the common and spiritual father of the whole Christian flock, use his power both over the great Ram the King, and the lesser cattel and younglings of the flock ? what, such devastations, murderings, perjuries, and other evils, as must of necessity follow so many Warlike conflicts ? under Christ's kingdom the Lion and the Lamb were to feed together, and the Wolf and the Kid to lie or couch together.

Truly the Pope had ever an Oare in the Boat of the Common-wealth. But know, *Rome* was now the Princess and Queen of Power, she raised up the people, to scourge Princes disobedient to her, not those obedient ; they should whip the people to the bare bones ; and this juggling appeared, and there were open complaints even to Princes against the Vicar of Christ ; But as the Princes to appease their Subjects, propound War against a neighbour Prince, yea though Christian ; for now great men and Princes being become Christians, it was hard to know whether Christians were Christians yea or not, their actions were so far different from their professions ; So the Popes to take the Christian Princes off of their intentions to look into his Court and customes, propound War against *Turks* and *Infidels*, a holy and specious pretence, to redeem *Hierusalem* from the hands of heathens, still the *Jewiſh* pattern ; by this he hath a double advantage, for his chief Enemies gone, that is the most active and most zealous Princes for reformation, he propounds the same to others, but discharges them of their oath, (for they that went did so) for many others he employed against his private Enemies, that is ; Enemies of his leudness, wickedness, and apostacy from the faith of God, (the Kings of the earth making a league with the whore, and drinking of the cup of her fornications (and shall no doubt of her destruction also) so that they who should and ought, being taken off from punishing her) God raised up poor despicable Creatures, yea taught Babes and Sucklings to vindicate his truth, as the so called *Waldenses*, *Albingenses*, poor men of *Lyons* in *France*, and boundaries of *Italy* ; *Wickliff* with us, *John Hus* and *Jerom of Prague* with the *Germans*, and others with others, thousands of which the Pope in the territories of *France* caused to be murdered by soildiers sworn for *Hierusalem*. Now as the Popedom was corrupted, so was the generality of all the Bishops, Doctors, and Priests in all places ; they had an abundance of riches, fat paunches, and lean pates, they had now found out an easie method of serving Christ ; they were in the years of the Churches prosperity, that themselves agree, and we believe ; that was the great reason they took so little pains ; The Kings had reserved donations of Bishopricks to themselves, and riches and honor (the nourses of ease) were what all strove for ; these dependances held the generality close to the Kings ; if any oppoſed, it was pride stirred up anger, that they were omitted, and others either preferred before, or above them ; yet even in this time the name of religion was venerable ; and truly the faith of many, or rather the credulity or superstition of most, with abundant charity was everywhere perspicuous ; love of God drew some ; but Pride, Lust, Covetize, Ambition, Ease and such like drew a multitude ; to speak of the multitude of vain and superstitious attractives, I count needless, as fitting rather itching ears then solid heads ; yet this gangrene over-spred the whole body of the Christian Common-wealth, and it was no miracle, for miracles were become common, and now the Church slept in greater security then before ; for who durſt oppose the word of the Pope, and the sword of Princes ?

for seeing fire and faggot, the ax and halter were now in the hands of the chief Christians, what cause of fear to the servants of Christ, and what need the Kings fear if they had the Pope to their friend? yet divers of them repined, seeing so much of the temporall state each day slipt away under Ecclesiastical jurisdiction, so called, as that in the time of *Henry the fourth of England*, when it was complained of in parliament, that the third part of the Land and revenue of the whole kingdome, was in the Churchmens hands, and it was petitioned to take some away, the first publick act of the people of *England* against the jurisdiction and estate of the Bishop of *Rome*, although in the case of *Johns* grant of the kingdome to the Pope, to hold in fee of him: The Lords dis-owned the power of the king to grant, as having no more but a trust in the kingdome; but they did not hint that his Holiness could not take, and it was vain when they saw he gaped for more then he took, and took more then was his due. The succeeding Kings were either so given to forreign wars, or troubled with the intestine divisions of the houses of *York* and *Lancaster*, that now they were forced to own Parliaments, yea to take the chief strength of their Title from their determinations: There had been a Law made formerly, to have Parliaments once a year; for as the Kings of *England* sought to avoid those publick conventions of the most potent Lords and popular Commons, for divers most evident reasons as they conceived, (and upon their unjust grounds truly) destructive to their Royalty; for there their actions were continually questioned; the actors by personal command of the Kings against Law, or labouring the abolishing the Laws, either fined, or hanged, or otherwise punished; and though some Parliaments went cross to others, some even justifying the acts of kings against Law, and their abettors; this invalidates not the power of the Parliament, but confirms it; for by these Acts the kings after made Title; so that here the Parliament got into their hands, and that upon motion of the kings, even the power of appointing the king; and this arose from that bloody contention between those two houses: But you will ask, was not the Title clear? yes, without doubt; but the Estates, that is the Parliament, upon the great dislike of the prefent Government, their hearts being alienated from a dissolute and riotous Prince, sought out the man among them of the Race, with whom the potent men could drive the best bargains, for Riches, Honor, and promotion; and ever or mostly, though the love and zeal of the Laws, Liberties, but especially of Religion, gave the first blow to the quarrel, and suited it; yet interest espoused, wedded, owned and enjoyed it; so easie are the best natures to be corrupted and depraved by outward excellencies, or esteemed excellent things.

But it may be Quaerid, what all the succession of Princes all this while did for the Church? truly all they could both by themselves and Subjects, multitudes of Churches, Monasteries, Fryeries, Nunneries, Abbeys, Chappels, all planted in the most pleasant delicious places of the Nation, admirable and costly structures richly furnished, largely endowed, both with lands and yearly profits of Tythes, onely to send a brother to preach; and now the common maintenance of the Church or Church-men ceased, and was made proper, and after was drawn into that civil order, which we now call a Parish, being a limitation of the bounds of the Church, for care of souls and maintenance; and though indeed there was so great a sufficiency, yet even then many of the Clergy were in want; it may be the Pope thought it fit some of Christ's Servants should be like their Master; I mean of that so called, and justly at first, the Fryers of Saint *Francis* Order, according to their stile, commonly called the Begging Fryers; for so they did upon conscience of the Rule of our Saviour, Go forth into all the world, take no care for any thing, one coat, no money, not a staffe, no nor sandalls; these went bare-foot, preached diligently, expecting onely what God moved peoples hearts to bestow upon them; for they beleaved, that God that said, The labourer is worthy of his hire, would not suffer them while they laboured to want. That *Rome* testified against *Rome*, admitting truth for truth, though living in Errour; yea, many of these preached against the Errours, I say not of the Church, but of the Court of *Rome*, wisely as it was beleaved, covering their mothers nakednes with the Fig-leaves of their temporal acquests; but all were not so politick, some spake plainly against the Bishop of *Rome* in all Ages, and preached *Rome* Babylon, and the Pope Antichrist; and it might well be; for *Rome* come to the height of outward greatness (so that the Mahumetans, who look for an earthly Paradise excelling and abounding in all carnall delicacies could not have desired more) it fell into the sink of enormity, all

all debauchery, riotousness and prophaneness, and exalted it self not onely against God, kicking with the heel now she was fat, but above God, under the power of the Keyes ; for she dispensed with the very Commandments of the Almighty, giving licence, not onely to unlawful, but even to incestuous marriages, which hath filled Christendom, so called, with all those horrible and direful effects of wrath, upon all Nations, which now of late years have fallen out, especially upon the Kings, Princes, and great men, the great Merchants, whose lusts would admit no denial, and so traded with this spirituall harlot, for some of her trash and paint, to give a colour to all their incests, murders, perjuries, lyes, adulteries, rapines, thefts, extortions, and such like; and let all the families of Europe look to themselves, they boast to be descended of Kings , ally'd to all the great Princes of Europe ; but have they not therewith an alliance to the judgement, which will, it is probable, follow these sins, till the blot be utterly worn out ? and let them look to it, they hold not but by this beast, and will be destroyed with her : mistake not , I say not all Kings , or kingly power , or Rule , or Government , but the issue of Incest , and the spawn of unlawfull Lusts.

I must now return to the civil State, where the Kings as I tell you, still laboured to maintain their Prerogative, so called, by which they intended the absolute rule of their will, holding all that was yielded by the Law, not as *datum*, or given, but *debitum* ; therefore they refused it not, but laboured to encroach, and therefore there was no immunity granted to the Subject, but they paid for it ; no right cleared, but bought at the hardest market ; yet upon these chaffers the Kings settle the Courts of Judicature, both of the Common Pleas, Kings-Bench, Exchequer, and appoint Judges and salaries at *Westminster*, a certain place , and at certain and appointed times, whereby the great and arduous causes, the difficulties of which could not be determined by the ordinary Judges of the County, might by these eminent and most learned, or so esteemed, receive a period with less charge to the Subject, and to these were appointed Officers and Fees : After this the Chancery was settled, and the chief Judges of all these Courts, I have read, the Parliament were to appoint, and they might if Annually ; but if but every seven years, as by after agreement was established, it was requisite to admit the king the choyce once, and then to be sure he was like to keep it for ever, (there was a president) out of these Courts the kings raised large supports ; for all the Officers which were now multiplied, went all along with the Crown ; and yet these Courts the kings liked not, but laboured to introduce other Courts, the settlement of all these Judicatories by way of gradation, admitting a final appeal to Parliament in course; therefore the Court of Wards is erected, and that upon a good colour, but a bad cause ; for the latter kings having seen the issues of things before, as is related, now neglected the warlike education, and the preferment of their Wards, as at first institution; indeed the cause which was then, that was the putting by degrees the whole power of the Land by Marriages, was now ceased ; and now none bare less affection to the king, then the race of *Normans*, the issue being like in condition with the *English*, ill brooking the service and vassalage which themselves laboured to lay upon the *English*.

After this Court came up the Court, so called, of Star-Chamber , intended still as a bridle to curb the head-strong humours of the Lords and great men.

There were erected Courts of Admiralty , and all these Courts were bounded, had their Rules in all circumstances ; the defects of which were still, as I said, lyable to appeal, that is, to be questioned in Parliament; the Law Courts, and Statutes, Courts of course, the other agreeable to their own nature by supremacy of power ; neither were the Spiritual Courts so called, that is, the Courts of, or under, or by, or from the jurisdiction, power, authority of the so called Clergy, from the highest Bishop to the meanest Surrogate of other settlement ; yet in these the Kings were chary, for they appealing to the Pope, a curse might follow ; and who that hath a due consideration of conscience, can blame the Princes, Judges, Magistrates and Officers of those times, seeing they pretended to believe the Popes Supremacy of power, and all other things conduced thereto ?

But now we shall see a stronger opposition to the Pope then ever ; for he sending out many prophanes Indulgences, as for pardoning of the greatest offences, and tolera-

tolerating the highest wickednesses, *Luther* a Popeling opposes, and that openly before the Emperour, at the great meeting or Parliament of the Princes of the Empire, many of which took part with him; he thus upheld, and the Pope scorning the check by aaultry Fryer, he curses and excommunicates him; *Luther* writes against that, and seeking and searching the Scriptures to find out how to assure the truths he had declared, God manifests many more.

Now here I must observe, that *Luther* broached no new matters, it was the old Scriptures, and the old truths of the Scripture; but the men that then lived, thought it then strange, and novelty, as being contrary to what they had been trained up in. Of all the forreign Princes to *Germany*, who stickled in this busines, none so hot as the king of our *England*, then called *Henry* the Eight, a Prince not esteemed so Religious as Warlike, nor approved so Warlike as fierce, every violent spirit not being for the management of Military Atchievements; and to speak the truth, the ease and delicacy of Court breeding, imbecillitates the mind, and enervates the body for the pains, care, and danger of War: This king nevertheless, had sure some design in his head, to gain his Holy Fathers good will in, as other Princes; he therefore writes, or causes to be written, which he fathered, a Book against *Luther*, in maintaining the Popes power, yea even in the unjuestest matters; that is, That *Luther*, a Vassal of the Sea of *Rome*, a Child of the Church, ought not to judge the Fathers acts, nor censure, much les controul matters allowed by him, much les authorized, nay commanded; for the bearer of the Indulgences had his Letters missory, or Bull, so called. *Luther* bears this shock, and all and alone stands the dint of the whole, so called, Christian world, a few men, and one or two inferiour Princes, with an universty, excepted; but this notwithstanding, *Luther* teaching and holding forth the Doctrine of Christ and his Apostles, fears not, and multitudes are converted (I may say to the Faith) from the Pope to him, he appealing to a general Council; but the Princes oppose with the Emperour, as well as our *Henry*; and good reason, as I before declared, set the Council to order the Popes matters, and a Parliament or Dyt will by Analogical Rule argue, at least (rationate at first, and at last determine) of the rule of Princes; let a Fryer question the Pope, and any Subject may as well altercate with his Prince, and at last appeal to a Parliament, as *Luther* to a Council; truly all the irregular Interests of Popes, Cardinals, Bishops, Priests, and the rest of that rabble, and of kings, and Princes, Judges, Advocates, as Lawyers and the rest hang upon one thread; and I presume that one sword at one blow cuts at last both asunder; assuredly as they have stood, so they will fall together; but mark Gods way; our *Henry* was a dissolute young Prince, and he married young, and to a widdow, nauseous to such a spirit, vain, though Heroick, or magnanimous, to give it the best among such epithites; he was desirous of a divorce, which he at first at least sought, not so much (as is most probable) for conscience, as humour sake; for this change he seeks the Popes dispensation; she was a daughter of *Spain*, the elder son of the Church, that is, the most ambitious among the so called, Christian Princes, which now stood ready at all assyayes to act the Popes pleasure.

He was nigh and potent, and must not be displeased; the Pope dallies, puts the *Englis*h king, desirous and hoping of a divorce, upon an injury to his Crown, as it is at last resented, by making him in a private manner, as a subject to the Pope, appear before his Legat to answer his fact.

Truth is, the very Court of *England* was now tainted with *Luthers* Doctrine, notwithstanding the kings Book, and these men taking opportunitie of the kings wrath, blow it up to ingratiate themselves and advance their interests, by subverting their enemies, they instill into the kings eare, a Rhetorick pleasing enough to a high and angry spirit; namely, that he had no dependance on the Pope, his Royalme was free: True, his predecessors either of weak Title at first, or controvertible at last, of weak parts, or in a turbulent State, either durst not, or did not openly oppose, yet truly did what they could to extinguish that power that they beleaved usurped: The king upon this, resolves to proceed without the Pope, and at last having experienced many wayes, receives satisfaction, and withall, to despight the Pope, renounces his Supremacie, and gains it Enacted by Parliament.

But to shew his zeal to the *Romis*h Religion; he continues the Act, so called, of the six Article, a most bloody and Popish device, and executes it, by which two contrary Acts,

Acts, a Papist is burnt for denying the Kings Supremacy, and a Protestant for affirming the Pope Antichrist, and such other matter, both at one and the same Stake; so that it was evident, this Prince sought not the honour of Christ, but his own interest; but this foundation laid, he proceeds a step further, which enlightens this somewhat more; for the Pope, who thought he had as good hold in all his Christendome, so called, as *Henry* had in *England*, he first cites, then excommunicates him; but this Prince all fire by his Colleague in Arms *Bourbon* assaults; and, had not *Woolsey* been truer to *Rome* then to *England*, had had the Pope his Captive; but money not coming timely enough hinders that; but he that regards not the father neglects the son; *Henry* therefore throughly angered, finds some default in the great Church-men, most obvious to Law, and least favoured of the people, and not at all owned in the word of God, as were Bishops, Pastors, Priests, and Ministers.

He therefore seifeth the rich Abbies, Monasteries, Nunneries and Frieries; and as before the Knights Templers once falm had many sins laid to their charge, which it was believed they never did; so these had many sins found, which it was proved they might well be charged withall, which but few ever believed of them, as Sodomy, Beastiality, Murder, and the like; for Adulteries and whoredoms they were known, and he justified his actions by the actions of the late named Cardinal *Woolsey*, who had, as he said, destroyed little Monasteries to build a great Colledge; and he destroyed great ones to support a noble Kingdom; intimating, that he found that these would be his enemies in his contest against the Pope, to whom they were more surely tied then to him; so that in case contention came, this was so provided for, as a dangerous fire hid within his own bowels; the lands he exchanged with his Lords, Nobles, and Servants at easie rates, whereby he was little advantaged, and they highly obliged, whereby he got fast friends against the Papal power; and they that would not exchange, were noted as favorers of the Pope; and from this change first arose our Lay-preachers, or Impropriators so called: See how God works his ends against his enemies, not a title of, or for God intended, and yet his work done; and *Henry* hath the glory of the first Reformer, yea, and his Declarations pronounced no less then zeal for Gods Glory; but what he truly had, others as truly deserved in his Court, whose faithfulness to their Prince, and zeal for Gods House, yet at last by the malignity, even of the contrary faction, was, when his service was ended, and the Kings coffers full, rewarded with an Axe, such fickle things are Princes, the sons of men; and this is the promise of the faithful in this world of affliction, in the life to come eternal felicity: this was the first turn of the wheel of wrath against these Apostates from the purity of the Gospel, and the practise of the Gospel; having left the Service of Christ to serve themselves in the honors, riches, glories, pomps and vanities of the world, lusts of the flesh, and pride of life; and now as wave succeeds wave, so doth sorrow, sorrows to these children of bitterness; for the son makes clean work, and hardly leaves a handful of Popelins in *England*; and this was presumed to favor more of conscience, because they saw not the hire of the work, there was little pay for their pains; but he of short continuance.

Mary, though born in unlawful wedlock, was, notwithstanding the Will of the last King, or the Acts of Parliament for disinabling of her, through the potency of the Popish party, yet by Parliament, advanced to the Throne.

But surely *England* had now well thriven in knowledge, especially from the after Lights to *Luther*; who following his steps went further in the knowledge of the Gospel; truth is, *Luther* opposed them, and had his followers; but the other had more, and the opinions increased and spread further. And to declare the truth, and honor it with respect enough to *Luther*, who deserved much of Gods people, as an instrument he had raised up for their benefit; his bitterness against his brethren, defectors from the errors of *Rome*, as from what they accounted his mistake, gave the Papists much advantage to upbraid the dissentions of the Schismaticks, so called, urging that there was never like to be peace where this gap was opened, that the divisions of the Church were subject to the questions or judgements of particular Christians; for from hence each man as his understanding or ability was, less or more, shrowd believe as he listed, and trouble the peace of the Church as these Schismaticks had done; to prevent which in *England*, it having had some footing as was conceived here, through the interest of *Henry*, and the youth of *Edward*, who though begot by a Popish Father, was educated by a Schismatiek Tutor: The Bishops ply it hard by fire and faggot,

faggot, to root out all that followed the way as it was called ; they had many nick-names in all Ages ; but here they who were the Lords Wheat, had the name from the envious man, of the devils Tares cast upon them, *Lollards* ; and they had as in the Primitive times, all evils, errors, and sins charged upon them ; they were generally poor, and happily the rich thought any way a good riddance, especially being so, at least accounted, of proud minds, though in beggars rags, and had all those phrases of Scripture applied to them as to those who subverted souls.

So that here was a great persecution, many hundreds were put to death, in opposition to the Doctrine of the Church of *Rome* ; but the State in policy medled not with the taking away of the Abby-Lands, because of the strong party that might have engaged against them ; and they who hoped to have time to make all sure, would not seek that with too much haste and danger, which by former experience they saw a small time would of it self restore ; for it was taken before, and would shortly be again ; and hinting nevertheless that a mite of Gods stock, or of the Churches and Church-mens dues, as they called them, in a Lay-mans hands, would bring a moth and curse upon all his estate ; so that what Covetize had robbed, Conscience would restore, if not double ; and as the Church-mens policy was great, so they forgot not to foresee a storm, in case *Mary* should depart without issue, and the Crown come to *Elizabeth*, who was, as the *Germanes* called them, a Protestant, as the *French*, a *Huguenot*, or of the Religion, as the *English*, a Lollard, a Bibler, a Gospeller ; wherefore there were many plots to take her away ; before she came to the Crown it was less danger, but the Lord prevented, and she trusted in God ; having no forces, no armor, no money, all the Realm Papists in profession, but a day or two before, *Mary* dead, is with an universal joy, almost, received to the Throne ; and although the Pope being now strengthened by the decrees of that famously infamous Council of *Trent*, had raised up all the Princes, so called Christian, as much as in him laid, against her ; and having excommunicated her as an Heretick, gave away the Kingdom to the King of *Spain* ; who with a so called invincible *Armado*, came to conquer it, upon pretence of his holy Father the Popes donation ; and had by Jesuits, Priests, and others laboured many ways to take away her life, yet she out-lived all ; and all undertakers against her, both in *Ireland* and *England* brought to themselves ruine, death, losl, or shame ; This in care for the Queen, produced Acts of Parliament of several natures, against Papists, Priests, Seminaries and Jesuits, distinguishing between a Papist in opinion, and a Papist in faction ; and so Priests, as being the inciters to things absolutely evil in themselves, upon Tenents or grounds, not onely unwarrantable in the word, nay absolutely contrary, but destructive to the principles of Nature, humane contracts, as no faith to be kept with Hereticks, no treason to kill a Prince, declared heretical by the Pope, and excommunicated : And although the priest and Papists did retort upon the *English* Professers, their former pleas for liberty of conscience in matters of Religion, and upon that account would have saved many Traytors to the State of *England* ; yet *England* wisely distinguished between those who had sucked the poyson, but poysoned not others, executing these, and banishing them ; yea, though venting their false opinions, if not guilty in, or of promoting of Acts of Treason. The Pope stomacks this ; and *Elizabeth* having now framed a new Church Liturgy, or Book of Common prayers, or rather corrected the old Popish Mass-Book, wherein was nothing contained which the then compilers supposed to smell, or have a touch or favor of Popery, and casting out all *Q. Maries* Priests, had placed (Protestants so called) Bishops and Ministers in the several Diocesses of the Kingdom, and respective Parishes ; and commanded no other Liturgie to be used under several penalties ; the Pope, I say, he thereupon inhibits all Papists to joyn in the Church duties, offices, or services, with the (now so called) Church of *England* ; whereupon many refuse to go to Church, who thereupon were called Recusants ; and although there were great penalties at last laid upon them, as of twenty pound a moneth ; yet the Recusants in all Counties were many, especially of the Nobility and Gentry ; the vulgar generally, as being bred up under that notion, that ignorance was the mother of Devotion, turned with the Tide, and the change was even to reason visible ; for the Service being now in *English* was understood, or might be ; yet all the Protestants were not contented ; but some apprehended a clearer and more uninterested light to Reformation for they pretended neither to Bishopricks nor Deanaries, nor any other spiritual promotion, so called ; no places, either of honor, or profit, but merely

merly to do the work of the Lord for conscience sake ; these taught that the reformation of Queen *Elizabeth* was but rather gilding the rotten pillars of the Temple, and Church of Christ, then doing indeed what ought to be , build wholly a new.

For they declare that the *Romane* apostacy was Babylonish, and that there was no more commixture to be had with her then with Idols ; that all the ministry of England, having no other calling then the outward, from Romish Preists, by the imposition of hands, was Antichristian ; that all the Courts so called Ecclesiastical, were unlawful, and any Liturgy or set form of prayer commanded in the Church, was superstitious ; that indeed Christ's Kingdom, which was of the Gospel, would not admit of those prophane mixtures, which the parishes in England abounded withal ; and that truly none was fit to be a Christian Magistrate, who was not fit to be a Church Member ; but with all outward acknowledgments of Loyalty to their Prince, as aiming at no turbulency in the State, but modestly to offer their opinions to the Parliament ; and it seems some of these opinionists, were gotten into the Parliament, if not one into the chaire, whose zeal would not admit him to take in consideration, the Message of the Queen, or affaires of State, till prayers had been made publikely by the Members for a blessing from God, and agreed (as per one Author) a day to seek God by fasting and humiliation, with prayer, upon the whole work ; But all these were nipt in the bud by the Queen's authority, who enlarged prerogative much, through the ardent affection wherewith her vertues had enchain'd the hearts of her Subjects to her ; for she, being enformed by some, how highly these things might in future times be stretched, to the enhanching the power of the commonalty in Parliament, it being necessary to keep them in due bounds ; though the Queen might not mislike the Acts, she did the manner, being done of their own heads, without acquainting her ; and although upon the Remonstrance of divers of these non-conformists, the Commons again began to stir : yet she not only as we may say wisely moderated them, but trusting to the popular affection she had gained, and I hope having no end of raising prerogative to a fatall eminency, she politiquely overswayed, imprisoning by her own authority, a Member of Parliament for a motion in the house, and did, unless my Author be deceived, tye the house to agitate no busines, but what they received in charge from her ; and the Ministers who pleaded for such a rough thorough reformation, were not only silenced by dislikes, but by a new impoured high commission, pretended against Recusants, were over-awed, so that they were forced to leave the Land ; some who staid (as the event gave evidence) too indiscreetly taxed the Queen and her counsel of State of Apostacy, lukewarmness, nay absolute Tyranny ; it is evident truth, that the Queen went no further in reformation then needs she must ; and truly the Spirits of most men would have sunk under the burthen of her undertaking, and had not God wonderfully preserved her, she had perished an hundred waies ; she thought not fit therefore to stir all at once, she was troubled with some risings every moment ; and to have attempted such a work as these men preached up, it was not only attended with difficulty and danger, but was accounted tending to Anarchy and sedition, which was so earnestly laid to their charge, that some of these suffered as Traytors, and the Laws were as, if not more, spitefully used against these, so called Brownnists, or Sectaries, then against the Papists ; they were few in Number, but generally the cheif for zeal and knowledge among the common people, who instigated the final and total casheering of the Pope ; It is observable many Papists were found Traitors and abettors of Treasons against the Queen, but not one of these, nay they died in her quarrel ; they taught, as it was objected, Treason, but practized nought but prayers and patience, yet even these suffered as the rest, and therefore being over-burthened in spirit, they retired out of the kingdom into *Holland* that is the united Provinces, whence they dispersed the books of their opinions all over the kingdom, whereby many were (as it was called) poysoned and corrupted, and now they handled freely all the controversies wherein they dissented, being under no lash, and shewed the Bishops of England in their Lordly power, the Clergy in their lazy set services, and the people in their prophane mixtures to be no better then a mockshew of Christianity ; that all their pretences of Christianity was but formal, their learning in the Scriptures was but natural, Sermons rather rhetorical flourishes then Soul-saving doctrine ; and indeed the lives of these professors were worse generally then heathens,

the influence of the Popish apostacy having so corrupted all the parts and Members of this body that no sound part remained : neither Prince, Magistrate, Minister or people, or the Laws themselves holding forth ought of the government of Christians, or whereby they professing Christianity ought to govern themselves, and the Magistrates neglecting their office, sin nourished, and vertue disdained, nought appeared. but pride and vanity, luxuriousness and villany, the seats of Law being become the places of oppression, and the Schools of learning the shops of wickednes ; hereupon they were cried out upon as Enemies to Government, and haters of all learning, yea despisers of God and all goodnes ; for they were sacrilegious, robbers of Churches ; and this because they not only held unlawful the honors of Bishops and all that temporal greatness which attended now the so called clergy, but also all set stipends and parish maintenance, whether by way of tythes or otherwise, many other things concerning politike and ecclesiastick government they held forth, which the world could not receive, at least did not, no not their brethren sin enmity to the Pope and Church of *Rome* ; and it is truth that though the Queen had separated from *Rome* as her predecessors had done, and that not for the respects they did (which nevertheless were political enough, for that hereby all the Subjects both of the Clergy and Laiety held none paramount the King, which before they did in the Pope as before said, and thereupon had arisen many rebellions) but for conscience, as taking him to be an Enemy instead of the Vicar of Christ Jesus ; yet she left all Ecclesiastick honors and promotions, Courts, Jurisdictions, and Dependances in the same condition as before, yea took the first fruites of Bishopricks and dues to *Rome* as due to her successors by a supposed right of the Crown, together with the right of investitures, and many absolute Popish superstitions were admitted still, as Churching of women, Mattens and Evensong, all continued in the so called Cathedrals, or Churches that were Bishops seats, Vigils of Saints and many holydaies, the solemnity of Christyde after the Popish attempt from the First of November to the Second of February : Times for prohibition of Marriage without a license or Popish dispensation ; and in the politique Law the wicked prophane *Jeroboam* like so called institution of saving Thieves and Manslayers from the Gallows, to serve at Gods Altar so called, with many other things which we shall have occasion to remember after : So prone and ready are even the zealous of men and women to be content to set down quiet ; and the dilatorines and chargeableness thereof was not at all eased ; and though many good Laws were, yet all the edge was taken off except against Papists and the now so called Puritans, sectaries or factionists ; for the good old Laws against exces were much laxed ; and what was never known before, two whole subsidies were in one Parliament granted to the Queen. God blessed her infinitely and her people, riches with trading increased greatly, and the hate of *Spaine* had made her potent at Sea ; she was great relief to the distressed *Hollander*, and a sanctuary of safety to the Poor Protestant through Popish cruelty no longer able to live in *France* ; and truly if reports be true, her Court was that of the best nurture among all the Princes (so called) Christian ; and though her successor *James* were a wise Prince, and well seen in all the controversies of religion for a King, yet he made little alteration, he loved not Puritans, but he durst not hate them : he would not promote them, nor exasperate them ; and in his latter daies he grew too flexible towards Papists, and offered indulgent Articles upon the treaty of a marriage with *Spain*, which he much hoped and labored for as was thought, being tired with their continual practises against him ; others believed thereby to strengthen himself against the Puritan party, which notwithstanding all Court policies and Law devices did increase in all Counties : and some did dare from forraign parts to tell their mindes to him plainly, while others at home did in Parliament with a little boldnes stand upon the priviledges of their house ; So that King *James* thought it not safe to call them too often ; But under pretence of remedying what was amis, or defective in the Law, he lifted high the Courts of Star-Chamber, Wards and Requests, but especially the Council Table ; And that he might not stand in need of money if possible, aliened many of the Crown lands, and loosing the good Laws concerning apparel altogether, opened the door to excessive vanity in apparel, which yet inhanised customes, so that I have heard what was thirty thousand pounds at highest in the daies of *Elizabeth*, was at the lowest two hundred thousand pounds in the daies of *James* ; He was a wise Prince and of great

great learning, but as unhappy in the improvement of it to the end he aimed at as *Hannibal* was said to be of his victory at *Canna*; But his procedures were with great judgement; for he exalted those called common Lawyers the then supposed keepers of the English liberties to an imminent height; but those that he found not absolutely buxome, that is without any scruple to yeild compliance to his absolute will, he by his power removed and displaced; to this end after one contest with one, he changed the stile of the Patten; this raised an odium, and at least he must bear the blame for, by whose insinuations or abuses so ever it was done. Yet while no man can force a resolved man, who can force a King? and the last and great Act being his, the whole was adjudged to him (yet not alone.) An other Act of great judgement to his end was the constant use of proclamations declarative not only of the Law, but his pleasure, in other lands called Edicts, or Acts of the King alone, or his saying or will resolved into Law; these were at first put out upon things beneficial for the Subject, and were as it were a temporary Law of exigency or provision by the King for what the Law was either being antiquated, and now revived, or els that for which there was no Law in the case, yet necessary to be provided for, and so was a time of Tryal or an Act of probation against the next Parliament. And these powers were never denied Kings formerly, or but seldom, being but seldom used and generally upon good grounds, so that no disobedience followed; but at last his proclamations were divers of them though carrying a colour of Law slighted; But he being of a very quiet spirit could not enter a contest, but sought to work his end an other way, and that was to call Parliaments: And to create new Honors, and so over-vote and consequently over-power the Parliament, debasing Spirits by dependance; and this having a strong influence upon the Gentry, dulled now with long peace (a natural politique of this Prince, and not the least conducing to his end if he could or would have known when to have taken up the sword) as he supposed they would; for they were generally so besotted of these Court bables of honor, that upon his or a great mans letter, who their Lordships pleased, was made a Parliament man; and the House of Lords and Commons the Bar or Clyff against the Torrent of Tyranny, was become an inlet to that Ocean; but there was one great jealousy still which was a bar, and this was the Kings excessive prodigality to his own Nation, who were as greedy to aske as he to give, so that the English grew a little, I may say a great deale, discontented, especially the understanding sort. But more upon the judgement so called, given concerning the naturalization of a *Scot* (*ipso facto*) by the Union of the Crowns in one person, as if all the rights, privileges and immunities of the free-born people of *England* were become hereditary to the Scottish Nation by one born in *Scotland* being next of blood, and so inheriting the Crown of *England*.

And though great and wise men had their hands in this work, and saw no evill in it; yet they that were as wise, though not so great, and more uninterested, and so less questionable, were otherways minded, supposing that this extraordinary favour to that Nation & the seconding and approving of it by so many wise men, and supposed affectionate patriots, zealous of the liberty of the English Nation, though it seemed to them as but a wise and civill policy and Act of munificence, not much to be suspected of danger, carried hay in the Horn, namely by this and such like plots fitted them to introduce and continue quietly (what they all thought fit of necessity to be done) the order of episcopacy in that Church, and with that, the whole liturgie of the Church of *England* with all those rites and ceremonies thought requisite as in the Church of *England*, which the King upon petition of some Ministers at his first coming to the Crown was fully resolved in; I mean in the conference at *Hampton Court* and the consequence of it. By which he was resolved not to alter what the late Queen *Elizabeth* had established.

But these men believed that as this was indeed aimed at, and this aime publiquely allowed, so that there was an other intention which lay hid, and undiscovered; and that was to force *Scotland* in case of opposition by *English* Armes, and to provoke each other to these several works by a short kind of policy; the *Scot* was engaged so as he must yeild what was his cheifest glory; And if he yeilded not, the *English* thus disrellished, would be quick to the quarrel; This I say not to be the Kings aime. No, I believe he might see no more then the plain surface matter, and never be able to discover either this intended by some, or that other politique which I now relate intended

tended by others, who yet drove on the same design; but as supposing, that it was a certain way to involve the two Nations in a War, which their conditions required; but his resolution was to keep all quiet; and truly knowing of the Scotch temper, he urged, but inforsed not; commanded, but compelled not; and though he better approved *Englands Hierarchical order*, he would not utterly reject the rigidity of the *Scotch Presbytery*, though he had found some cross dealings at their hands, which in *England* would have been called the *Scandal of the Crown*, and were not altogether favouring of a *Christian modesty and humility*; were it but for the *Kirk* to command a *Fast* on that day the King had appointed a *solemn Feast of State*, and that after the *Feast* was publickly known and divulged.

I mention but a peccadillo, and that under a supposition, because I would not apply that to things, which may be, was, and will be only the error of persons, during the reign of these two princes *Elizabeth* and *James*, notwithstanding the many complaints of the excess and defects of the Laws in their several respects; yet nothing was done truly worthy the supream powers by them claimed; there were some particular streams or rivulets of error amended, or at least pretended by particular Statutes, both in giving Laws where none were, and amending what was amiss; but out alas, the Ocean whence all these had their rise, was still the same: Three special Statutes I must here remember of *James*; one to punish with death him or her that had two wives, or two husbands, but not made death to commit Adultery; yet as I have heard canvassed at the same Parliament, this Statute severely executed: The second as rigidly, which was concerning them that were or are delivered of Bastards, pretended dead born, and having no witness present, to be taken as murderers: The last was, the regulating of the number of Attornies for good cause there specified, which never was so much as in the least observed, not a Judge ever questioned for it; yet this as to the world, and in carnall respects, of as necessary concernment as the other.

I shall not progress further here concerning ought, being now come to the portall of the *Theater* of all *Quæries* in the multitude of questions stirred up in the *Raign* of King *Charles*, who succeeding his father with all the expectations that might be of the vulgar, his entertainment to the Crown was with all congratulations of a high joy, such as the high condition of his estate required, in a settled Kingdome, having enjoyed a continued peace for almost 140. years, whereby riches abounded exceedingly; but with them pride increased, so that spirits grown high, they were ready to kick at the prick; and the rather, in respect knowledge abounded, and they were not ignorant of their own strength: And what the *Romanists* foresaw, was now held high time to provide for; for whether it were the advice of King *James*, or the disposition of *Charles*, or the natural jealousie of Kings, or the supream over-ruling decree, intending by degrees to fit things to the determinate end, I here discus not; but this bright day was soon ore-cast; for in the first Parliament, which I suppose, was called in or about the third year of this King, after some order taken for the regulation of evils against the civil peace, and some kind of care taken for punishing the great prophaners of the *Lords Day*; the King not well liking the Petition so called of Right, being indeed a strong limit to dreaded *Prerogative*, yet grants it, and continues the Parliament, untill he had obtained seven *Subsidies* of the people distinct, and eight from the so called *Clergy*, and then dissolves it: But there was another special reason, namely, the people were grown exceeding high and fierce against not only the special Favourite of the King, the then Duke of *Buckingham*, but secretly taxing the King himself, as at least an Abettor to him, in the too soon speeding his Father out of this world. I beleieve it is evident to most that the Duke committed a crime, & notorious to all, that the King did by dissolving this Parliament, hinder the tryal of him; but this doth not evidence his guilt, though it gives matter of surmize; but this may be handled fitlier elsewhere, if need requires. The breach of this Parliament gave a great disgust to the people; the rather, because it plainly appeared, the King wholly, and almost only sought himself; for although he had acknowledged by *Act*, the necessity of continuing the Parliament, to settle fit remedies for many notorious grievances, yet before ought expedited but his own business, (as it was justly called) of the *Subsidies*, He, of his so called *Royal will*, annihilates all by nullifying the Parliament, as he was said to do; and indeed, it amounted not to much les; for he did at least, by his instruments which he owned

owned, almost with the same breath he assented to the so called Petition of Right, or due Rights of the Subject, break it, and proceeded so far to aggrandize the power of the Prince, that he made the Subject a slave, having a speaker fit for his ends, a man of as mercenary a spirit as could be; for upon some ineavility, as it was called, of some members zealous for Reformation, who loth to have the Parliament so fruitlessly dissolved, held the Speaker in his Chayre, to Vote a Remonstrance to the King, he imprisons them, seizes their Trunks, searches their, not only chambers, but pockets, most of which dyed in restraint, being accompted the Martyrs of the peoples Liberties, whom the King thought the greatest means of subverting of them, as intending still to drive on the contest betwixt the King and his people, which was begun in *William* so called the Conqueror; and surely he could not but espy, that notwithstanding all endeavors to the contrary, the people had still gained upon the Crown; and surely what he expressed in full Parliament, and which is printed among the Statutes at large, more then cleared his jealousies of encroachments upon him, which is a sufficient cause to a Prince to stretch his power; and surely was, as before is said in part, with those other reasons annexed, not only the cause of that Sessions prorogation, the then Parliaments dissolution, or rather by not keeping his so called Kingly word, annihilation; but the not calling of Parliaments till necessity enforced, as if he had seen, or foreseen the fate which hath since ensued. I cannot beleive him ignorant of all those, not onely so called prophesies, but of those conjecturall observations of those grand Mathematicians, so called, which how his wisdom might prevail over, I know not; but assuredly, Princes of all are most easie and subject to be entrapped, at least the inquisitive part of them; neither shall I here treat of the power of the Stars, ^{as 10} if at all, although I must profel, little have hapned in the notorious part of his Reign, which such Artists did not more or less foretell: But because out of his Reign, is, as it were, raised the fountain of all controversies, both divine and humane, let us shortly run over the state of the so called Church and Commonwealth, and begin with the Church, which though not so furnished with large Territories, nor multitudes of Religious, so called, Professors, as before those nests of Monasteries, Nunneries, Fryeries, Fraternities, Colledges, &c. being dissolved and confiscated; yet to the remaining Arch-Bishops, Bishops, Provosts, Deanes, Deanes and Chapters, Vicars, Vicars Charols, Chaunteries, Cathedrals, sub-Deanes, Arch-Deacons, &c. (pardon that short enumeration of many glorious beasts of Babels forest) there was a sufficient maintenance, to perform the duties required in a Bishop by *Paul*, without any by-encroachment; but these men were now grown civil Lords, and having contracted Marriage with the world, they lay with it, and neglected their duty to their Lord and husband, the Lord Christ Jesus.

They had large Palaces of old Babel, the same seats in their several Provinces called Diocels, the same structures or great Churches, the same Attendants, (for their Courts Juridical were not taken away) these all required maintenance, and that by reason of worldly pomp in great measure; but they had enough for this, had not the itch of the flesh brought them as other men to avoid fornication, to betake them to their own wives; and the same carnal prudence which before prohibited Marriage, lest the care of the world, and love of children, &c. should cause imbeselling the Churches, so called, Revenue; the same now wrought unjust seekings of gain by any means, to the prejudice of the Church. Before the storm in *Henry* the Eights time, many long Leales were made, before Queen *Elizabeth* many more; so that to assure maintenance she was enforced (the Father of the Church for fleshly children sakes, robbing and wasting their spiritual Mother) to that prudential Law, that they, &c. could make no new Leafes, or renew any old, but for three lives, or 21. years, reserving the old rent; but as children increased and worldly temptations, these Church-men could so far dispense, as either to coyn old, or else new Leafes, with this blessing from the rule in Law, *Valer quantum valere potest*, and these were to their children, servants, friends, or the best friend a good fine; they had also alwayes grants of Leafes to such, and new concurrent Leafes: Thus were they made poor, who were rich, by stealing each from other; and their first fruits which was the first years revenue, was now paid to their Lord the King, as before to the Pope; their dependence by the Statute of Supremacy, suffering that alteration; this made them look to all profits narrowly; And what could be caught, was; Ordination bought at the worst hand, Marriage at a set

set rate, and the usual publike Declarations, so called, bidding the bands of Matrimony, brought to a scorn; all that could purchase it had a Licence; and the Wills and Testaments of men being canvased in every Arch-Deaconry, Diocese, and Province, brought a settled gain. Batchelors of the Civil Law capable of two Benefices, or Spiritual promotions, and so the Chaplains of the King, Noblemen, &c.

And this Apostate order was universal: Again, the Bishops now made injunctions, some one, some another at their own will; and the breach of all, or any of these, was cognizable in any their Courts, from the Chancellors to the High Commission (so called, indeed a pretty *Spaniſh* Inquisition) yea so far as to punish the not-wearing of a Surplice at the reading the Liturgie, or so called Common Prayers, or set and publike appointed prayers in the Church, with imprisonment during pleasure, fine of 1000. l. when a Blasphemer, for speaking these dreadful words to the ears of any but an Atheist (he being admonished for swearing, said) I will swear God out of Heaven, and sit there as God my self, was fined but 100. l. and mitigation of imprisonment. I do attest this my self, being present at the sentence of this Blasphemer, and at the Sentence of Doctor *Bastwick*, for writing against Episcopacy; and *Burdet of Tarmouth* (for non-conformity) the same time, who had in that word two offences, one not wearing the Surplice, the other the Churching (so called, that is, declaring) a woman purified according to the Levitical Law, after child-bearing, without a Vayle or Rayle which was the injunction of the Bishop. And now the Queen being Catholique, that is, Romane, the Liberty of the Mass grew from the Queens private household, to a most frequent household duty, and at least was publike, yet not with any toleration, that is, if toleration be taken for a legall Act authorizing; but if for an impunity, notwithstanding many and oft complaints, there was a grand toleration; and the Judges had by special order from his Majesty, command against them, under the name of Recusants; but with this hint, that there was a more dangerous Recusant, called the Puritan or Brownist; for then there was no distinction; so that the Bishops armed with the power of the Civil Magistrate, under the late schismatycall notion, so termed at *Rome*, of his having both the Keyes, that is, being the suprem acceſſion to the vulgar acceptaion, both in Civil and Ecclesiastick Jurisdiction, according to the strict notion, having the suprem intendency, not only over, but in the ~~the~~ Church, which the Puritan urged with so much wariness, absolutely holding the Lord Christ the suprem, and yet craving the Majesterial power, to ayde and assist with the name of supremacy, so far as ran even with his opinion; that it was doubted he was as ill a willer to the absolute Jurisdiction of the Prince in the Church, as the Papist was; so that he was exploded the Court, and no allowance given to his Doctrine there; and indeed with all possible vexations of the Lawes, by imprisoning, fining, attending, delaying, stigmatizing, &c. all that were so called were handled by the Bishops, and the so called Clergy, with their Officers; no marvel; for these men, generally Lay men, preached in their writings more and more edifying Doctrine, then the Clergy in their Pulpits; and these mens lives and labours were as exemplary for godliness, as the other for vanity, pride, laziness, and debauchedness; yet these (provided they were conformable, that is, obedient to the Fathers of the Church, the Bishops, be it right or wrong) were freely almost only allowed; for money now could do all things, and necessity more; there was on the one side Symony upon Symony, yea much legall Symony, for the great rich Livings; and whether the Priest could preach or not, his Curate could, and where the Impropriator had a large revenue, the poor Curate not above 10. l. *per annum*, and 20.l. a large stipend, he must be of weak parts, that would so rest contented, and seek no other preferment; this brought in together with so many Parishes as bad as impropriate, being in the gift of the Cathedral Churches, where Bishops or Dean and Chapters had the gifts, so many ignorant, lazy, debauched fellows into the Ministry, that a Christian would stand amazed: And when some pious men sought a way to purchase out these impropriations, and to settle an able religious preaching Ministry, they were allowed to expend their monies, which I beleive they never saw penny of again, but were so frowned upon and discountenanced, that the beginners being wearied, the work even dyed in the first Cradle; for these things made the Bishops plot for life, and as plain as words could manifest the intentions of men, it was resolved, No Reformer, as they now begin to call them, should stay in *England*; and indeed their troubles grew so fast upon them, that they were

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were forced for fear of being taken at a good and Christian duty and punished by the Law of Liveries now called Conventicles, to pack away, some to Holland, some to America, (or new England so called,) being a gallant plantation, some to other places. The Bishops Chaplaines become sole masters of the press, and their licences were as bad as an *Index expurgatorius*; Popish books are now severely forbidden, especially those quaint Tracts of *Cauffinus*, yet almost in every mans hand, as if they had been forbidden only to quicken tale, an old yet notable Trick; The Arch-Bishops book being a Tract written against *Fisher* the Jesuite, is printed; but at the same time all the great wits blow up the Quodlibets of Popery, the chief heads being publicuely and professedly maintained at both the so called Universities; And a Jesuite (so called) *Franciscus de sancta Clara*, brings both the Papist and the Protestant to so neer an Union, that a good judgement might be deceiveth (tis probable, for many were) to know the one from the other. Many so called *Arminians* now appear; these are highly favoured everywhere; and now the Hierarchy so lifts up it self, that not the Gentry only, but even the Nobility themselves were discountenanced, if opposing; All preferments are now to these, yet few of them knew well how to bear them, but a little time could give them a relish; and the smack would never out of their fancies. The opinions of the Romanists now on all sides, not only for hallowing places, or sacring them, but even that one place of or among these so called sacred, was more holy then other, from the duty there performed, or otherways: adorning Churches, the severall Manners, Places, Times of bowing, gesture, and order of pronunciation, at or in reading, all not only discoursed of, but applauded, and generally practized; adoration at the entery of the Church, and also at departure, and that to the East, all for uniformity, the great and special pretence of the so called Church, that is the Bishops, the Fathers of the Church, according to their own stile: Bowing or Genuflexion or Adorations to at or of the name of Jesus, Extreme unction, Confirmation, Pennance, all practised; yea a Nuntio of the Pope, but not so owned, yet well known, and which troubled the people most of all, a rail of wood or other partition betwixt the so called Priest and people at the receiving the Sacrament so called of the Altar, and this of necessity: and the words of administration purely Popish (as yet in the directory.) But all persons without question in the parish admitted to the Sacrament as by Law was established; these things settled, they haste for power to the further settlement of the Church in power and purity; and by the Kings power they are convened, and called the sacred Synod, where they Act with large commission, and fearing counter-buffs of Providence by them called Fortune, they denied the Pope, but admitt Popery in its full height; and to evidence the Antichristianisme, they establish their Hierarchy with an oath, with that famous clause of &c. labouring as the brood of old *Rome*, to bring all Temporal jurisdiction under ecclesiastick censure; and this was the condition of the Church or Churchmen, or Clergy men so called.

I shall now as shortly give you a vew of the civil State, as the necessity of perspicuity will well permit. You have heard upon what a politique *William* so called the Conqueror, founded his Empire, which yet from evident causes declining even in the space of his own and Sons Raign, did evidently shew the frailty of all humane wisdome, and therefore might well in the space of six hundred years be brought to nothing; and truly once for all to say it, I am in my conscience perwaded that King *Charles* did see the want of Law in this land to govern the Nation rightly, and upon that foundation sought to mould the kingdom to the similitude of other Nations; for it is a sure and certain principle that States grow old and Laws &c. And if not reduced by reformation, there is a necessity of a new formation. Now the chief thing which a Prince looketh at, is the power of War or the Sword; and this so far as the power rested in the King, which was his Tenure, was clean lost, and gone; for the many transmutations of possessions, had made many litigious questions, partly through the corruption of officers, not duly awarding proces against alienators without license, partly other defects of certain boundaries, and partly the evill of time, which had through divers dissentcs parcelled great estates into many persons; So that there were many Tenants, but few Knights; and what was at first an honor, to hold of the King or by Knights service, because the Tenants Son and Heire should yet come to the education of a Lord paramount or higher then the Father,

Father, and so should be bettered both for Arts and Arms ; the Kings of late years had made them absolutely but the fees of their Servants, and the Heirs of gallant men were as bad as slaves to the will of the Kings Grantee : whereby they were yoaked unequally in marriage, or their estates were generally squeised of sometime a third, sometimes a fourth, or fifth part in the Court of Wards ; so that they that should have been the Princes guard as it were, being thus prejudiced in their minority, and drinking in hastily the complaints of their friends, bewailing their Wardships as an insufferable vassalage, could not heartily seek to maintain that power whose substance was their ruine to eternity in all their progeny ; and through the long tract of time it was grown to this, that almost any great or rich mens Son must be a Ward ; all Titles of Lands being so exceedingly intricated, that it was almost impossible to clear it ; and this rigor was never higher then in the daies of this King ; so that it is evident, for a settled *Militia* for his own defence he had none, but had left himself naked to the strokes of any timely opposition.

Next, as he had robbed himself thus of power, so had the example of all the Kings in part, and the power from Jealousie in other part, devested the Lords of all power in dependencies of Knights service.

The Oathes of homage and fealty the Kings had respited them to enhanse a revenue, and the Lords were not willing to urge that which had been so fatall to many their predecessors, through their dependencies ; and being now grown generally loose, lazy or worse, from the long peace we had enjoyed, they had no contests but at Tennis, Drinking, Dicing, or worse sports, and sometimes a Law suite ; These yet sunk many of their estates, and they had no waies of raising them but by the Kings sole favour ; for there were no Lords now that had absolute power in any County ; this made them wholly quiet ; and the rather because to be of an active warlike spirit, gave cause of Jealousie to a Prince ; especially of any who were not meerly his creatures (namely, of ancient popular Nobility, that is their Ancestors of great repute with the people,) Many therefore retired themselves, lived privately and quietly, in respect of the Court, but few of them with great love in the Countries where they were resiant, carrying too severe a hand towards their Tenants, by racking of Farme-rents, and otherwaies, as Lords of Mannors enhansing fines, as all the Gentry also at their own wills enclosing of Commons for private profit ; and by the evill example both of themselves, Servants and Retainers, bringing a general Lewdness, Loosenes, and debauchery in religion and civill manners into all the quarters of the Nation.

For the Country still (at least as far as it may or can) imitates the Court ; and so downward ; by this means a general almost universal pravity and corruption stole upon, and got possession of the *English* Nation ; not that I think (to speak once for all) that *England* was worse in any respect either for civill or Ecclesiastick government, then any other Christian kingdom ; no, but that it had departed from that purity of Government which it self held forth, and had in some measure exercised, yet was then taxed to hold forth little of a true Christian Government at all ; for first, though the Sabbath was held moral, yet it was prophane, and that by publique authority, as by the book of sports, which also gave such a loose to the power of the master of the family, that he could not govern by an exact rule, that power being before too much broken, and this opened a gap to all inordinate walking towards magistracy in other both superior and inferior places.

But assuredly the foundation of this mischief was principally in the abused practise of the Courts of Justice of this kingdom ; which holding also a *Jewis* dependency as before was hinted, there was no stint of strife ; for the Law admitted appeals, and what was so called the Subjects due, ought not be denied them ; so that if you had either a knavish or a powerfull adversary to deal withal (which power is manifold, as either a great rich man, or greatly friended by the officers, or els powerfull in a joynt stock, as a corporation, whose united purses have ruled over all justice and righteousness whatsoever in many places) you could not get right but with repentence, that is loosing by the bargain ; the particulars I shall demonstrate after ; this ruined many, discouraged more, discontented all, (except the gainers, which were and are such a rabble and bed-roul of names in both Laws, as would amaze a wise man, much more a Christian ;) for whereas a Christian saith, let all things among you

you be done in love, and let the brethren judge your differences ; that is without litigious pleadings after the manner of the world, but with that quietnes, gentlenes, meeknes, and botherlike affection, as the Gospel of Christ holds forth ; and the prudent man saith, let it be before wise men, duly appointed, in a time convenient, and with certainty ; and what one Judge cannot determine, either for difficulty, or doubting, let aid be joyned and right done, and that whither according to the exact letter, or the rule of conscience.

The Laws of *England* held forth all things in practice ; I say in practice (for the general rules or foundations of *Englands* Laws are good, wholesome and sanative) absolutely contrary ; for it held forth in the letter you should have right for every wrong ; this general rule was good, but discend to the particular ;

The Quare now is what remedy for the wrong ; an Action you must prosecute ; But first it is considerable by whom this Action shall be brought ; for long suites and expensive have bin had : and then the party ought either to have one or more joyned with them, or where the Action was ioynt, it ought to have bin sole, sometimes in the respect of thenature of the Action, sometimes in respect of the way of asseling or recovery of damages ; next it is considerable in what Court ; for oftentimes 100. li. hath been spent in the Court, and then the Court had no cognizance of the busyness, yet the ablest Lawyers in *England* advised within the case or so accounted as most favored &c.

But grant you hit the Court ; then the Quare is what Action ; for one hundred Actions have been prosecuted in the right Court, and before right and due Judges, and by the right person, and then the Action mistaken, it was deceit, and should have been a Trespass ; or a Trespass where it should have bin deceit ; so almost in all matters of higher or lower nature ; next agreeing what Action, where shall you begin your suite ? out of what Court have your proces? and for your proces, whither from above, that is the Kings bench which now holds cognizance of all pleas, or the Common pleas the proper Court of all Subjects differences betwixt themselves ; at least in the Common Pleas by original, in the Common bench by Latitat, or els in the Chequer by a Surmise that you are a Debtor to the King, or below in the County or City, if the sum be not above their Trial ; and for the Chancery and such other Courts a Subpæna ; and then the several Writs must be issued in due course, or all is nought. Next for the execution of the Writ, there is for the Chancery &c. either the party plaintiff or some other shew the writ to the Defendant, or leaves a part, or the body of it so called as the case requires, at his house, and if he appears not, proces issues against his person ; but upon the other, he must be arrested by a Serjeant (of the Mace so called, the officers of a City) or a bayliffe, whether common, special, or of a liberty, there is not much difference, they are much alike. Now these mens livelyhood is under the Sheriffe to execute writs of all sorts ; to judgements and Executions they have a fee proper from the party ; but that was set so long since, that it is not a sufficient maintenance now ; and rather then take paines to raike that, well forefeeing the trouble it would bring, to alter all Fees in the Nation, they let them gripe the poor, and abuse the rich, and wrong all ; Yea assuredly they many of them take hire of the Debtor or Trespasser not to see him, and of the Plaintiff or Creditor to see him ; as the searchers or under-writers for customes formerly, or now for excise may do, either for prohibited or custome stoln goods ; So that ofttyme the charge of arresting, is as much as the Debt, and it is generally known that these men are the worst sort of men ; the old Law was, none to be arrested but to find sureties that his cause was just, and that he would prosecute with effect ; but that just Law being too hard to many poor men, to surmise the best, was not remedied, but by practise (that is the unwarantable proceedings of Judges) Totally abolished ; and now a bill of Middlesex may abuse any man unknown, and the law is made a stale to the both foolery and knavery of Sycophants or worse ; there is much pleaded for this arresting by Bayliffs, as first he is a known and sworn officer ; I say only if he be so, let his Summons without a Writ or attaching the person be enough ; and if twice summoned, let him be proceeded against as to his goods, who will not appear, provided he be at or in Town ; but this is beyond my taske intended here.

There is another way of making the offender appear, which is by Utlagary, used very unjustly, and so confessed but as good as the rest. The next thing is where I must lay my action ; that is, in what County. And many times the action is laid in *London* for a matter

of so small moment, that a journey to *London* of himself, and witnessesse, eats out all the gain justice gives, especially when small matters are removed out of the County; justly, as I will say in this case, they being indeed above the now proper rate of County or City Trialls; or else unjustly, as when a man is arrested in a liberty for five pound, or forty shillings only, which is there triable; he gets himself arrested also for a greater sum, and so removes both to *London*: now for these proceedings in abuse of the common subject of the Nation in Law-proceedings, believe not I can, or hope to open all the sleights, tricks, quillets, fetches, deceits, knaveries and abuses, with the irreligious, abominable, profane juggles thereof, it being in the whole practise; I say practise of it, nothing else but vanity and wickedness; I am loth to say robbery, extortion, and such like epithites, which some mens zeal bestow upon it, cauterised under the scourge and lash of a long, pilling, polling suit, hurried from Town to City, from City to Country, from Court to Court, Hearing upon Hearing, Order upon Order, Judgements and Verdicts both so called, and yet in a labyrinth, not onely Term after Term, but year after year, and still almost as far off as ever, if not further: no, I aim but to give a clear light that our Laws practised, are not the Laws of the Nation, that is, a set rule of Justice, but usurped upon us by evil men they are, as practised neither according to natural reason, the foundation of the Laws of Nations, nor Religion the Law of the Almighty Wisdom; pardon my zealous digression. I now return to what I had omitted; which is, that by Law, that is the custome allowed, A Sheriff, or under-Sheriff shall make Returns of Course onely for the benefit of Officers; as for example, that the party was not found within his Baylewick; or that he hath no goods, &c. when both are contrary; yet he is sworn to excute all Writs truly; but this is no perjury by, or within the judgements of any the *English* Judges, because not being within the niceties of their wise sayings or resolutions, no more then thousands of other perjuries, which though they may excule themselves for, because the Laws of the Land, so called, look not at them, as the Judges of such perjuries; yet that they get no other Law established, seeing the great want for redres of such matters they finde before them, will be their or the Lands afflictions at last, but to go on in a course of Triall. These difficulties over, I must now put in my Declaration, that is, the narration of my complaint into the Court in writing, and that not in *English*, but *Latine*, (though I understand never a word) and that in the form the Law requires, (though I can tell no more then the meer matter of my wrong) And in the same manner most my adversary, so called also, though little wiser then my self: But to help out this, we have Attorneys, so called, allowed Deputies to answer for us, skilled in the way of practise (and these men they do even do what they list) for the Client, so called, is seldom knowing of practise; and he hath so much fise for his Fee; then drawing the Declaration or Plea, which is, either general or special, and though done with much difficulty and charge, is oft mistaken the one for the other; again double pleas are exploded; and though great advice taken which matter to plead, the best is left, and so left remediless at Law, unless a new bout in another Court help him, or else the Chancery; either of which remedies is generally worse then the disease.

Now the reason of Attorneys was this; as riches multiplied, pride and outward pomp encreased, long suits came into fashion, and to maintain Officers, it was laboured for to avoid further suit, by these means to bring all Trials to the upper Bench, or common Pleas, &c. And pleadings ordered wholly in form, and in *Latine*, which, what for ease, and what for (the so pretended being so made) necessity, namely keeping of Records as presidents they were admitted, and to get an Attorney was difficult in such chargeable prosecutions, which to remedy, they were allowed privilidges, as Officers in some Courts; yet being the Clients Deputies, they were the *Plaunders* or *Serjeants*; (I say no more) servants, and carried their baggs, as divers of them did throw in their teeth upon discontent, though they have now almost shaked the yoke off their shoulders.

Give me now leave a little to speak of Attorneys and their practise, which almost over-ruled the whole Law: First, the Judges, though the Licenser or allower of Attorneys, yet receiving great part of his extraordinary revenue from him, as upon Fines, &c. Next the Serjeants upon all special pleas; and the Serjeants and *Chancellor* upon all legall proceedings, the Client being generally, if not wholly led by the Attorney, they were the principal men; and Lawyers grown numerous, many would covenant to have half

half Fees with the Council. I profess, and averr, that a late Judge did, being a Serjeant, declare it to me, as an audacious part of *I.B.* whom I then found going from him, with these words Poultry saucy Knave cast after him by the Serjeant.

But assuredly they were grown very knowing in the practical part of the Law; and some of them have (among multitudes of more) had these abusive practises laid to their charge against the Laws, as taking of *Capias's* from the Common-Pleas, yet never filing an Original; This redounding meerly to his profit, abusing the Officers of the Court to enrich himself, and not advantage his Client; for the Cursitor, so called, loofeth one shilling, the Philizer one shilling two pence, &c. So that the Writ which is six shillings two pence, cometh onely to him, except for the Seal seven pence; and if this be discovered before Judgement, though after Verdict, I believe it would overthrow the whole proceeding.

So in suing forth the *Capias velag.* For whereas upon true practise, a *Capias* being awarded to the Sheriff, who (by wicked custome not looking after him) returns a *Non est inventus*, that is, upon a Writ to take his body, the Sheriff, though he might take him, returns him not found; whereupon another *Capias* or Writ to take his body, wherein of Custome, as aforesaid, the Sheriff again makes such a (perjured in Christian acceptation) return again; then goes forth another Writ, mentioning what ado they have made to get him; and oft times he is out of the County indeed, it being done of purpose in another County, that he might not know it; and then for his contumacy, he is exacted, proclaimed, and outlawed, and this oft in two Terms, which ought to be done in five by the Law; but little justice in any part of it, though spurious in pretence; yet if the *Capias* were delivered to the Sheriff, there were some rule observed; but the knowing Attorneys can do it themselves, using the Sheriff's name, who never sees the Writ, and did he, not one of a hundred can tell what to do, but by his under-Sheriff, a late constituted Officer upon the high made difficulties of Law, who being one of the same Tribe, calleth discovering of error defiling the neat, and so lets all pass as Custome leads: Thus is a man put out by the Law of the priviledge of a Subject, and this only to maintain Officers; for let all the course be examined, and the issue will be nought else. I have known this sued against a man, for that the Law gave no action, the party yet never demanded the thing; and of a man not worth twenty shillings in the whole world, and the matter it self not worth five shillings, the Charges came to nigh four pound; and if he hath notice, no way but to sue a *Supersedeas*, which is, I take it, forty shillings to the Judge; otherwise to the Gaole without mercy; of which Gaoles a word after. Next, this is an ordinary course, at least so reported, in petty trespasses they declare of course, meerly to get Fees upon agreement, though they assign no place; others having liberty to proceed as they see good, and make an end, or do any thing, which is generally the course of quiet poor people; there is favor promised to either party; he draws a judgement from his adversary the defendant, yet sues on still, and brings it down to Trial *Pr. Nisi prius*; then stops proceedings, with saying he will confess a Judgement, and enters it the Term after; others enter up Judgement without Warrant; (I have known worse abuses yet, but no punishments) oft for want of entring a Rule they suffer Judgement *Per nihil dicit*, whereby great and extraordinary Charge accrues to the Client, and but small gain to themselves; but hereby they pleasure the Officers; oft times they plead or confess a *Non sum informatus*, and this without Warrant, and then comes out a Judgement unexpected; and this dealing is justly suspected of false dealing.

It was ordinary to enter false Orders, false Affidavits, imbezzle depositions, pick Juries, draw Witnesses, if not make them; I know the labour and pains of a faithful and honest Attorney is great, and very painful and laborious, in running from Office to Office, from Clerk to Clerk, Officer to Officer, Council to Council, Judge to Judge, Court to Court; neither do I here question their proceedings, who make either Law or constant practice their rule; But these rude, ignorant, young heads, who think and make it their way to gain practice, to over-reach, &c. (though I in my opinion am as *Mountague* said of learned *Selden*, an Heretique in the faculty as to the whole manegery of the Law) who although the Law doth sufficiently provide against, which were by the carelessness or faithlessness of the Judges in their trusts, through dependence as aforesaid, grown to an infinite number beyond what they were; I believe in the time when by Statute of 33. *Hen. the 6.* they were limited in *Suffolk*,

Norfolk and *Norwich*, where they abounded ; but they are now bound apprentice to the Trade, as well as to tapping, whether of wine or beer ; why not as well to Brothelling ? and it is thought unjust to put any by his practice, though they ruine the Nation by it , at least bring a deluge of poverty upon the people.

Yet these put the Lawyers also upon hard shifts ; for now the Office of an Attorney is to practice all the parts of a Lawyer ; he drawes all pleas , or generally all but some speciall ones upon some difficult point ; and in that some one old beaten book-man in a County is famous ; but for making of Wills, and drawing all sorts of conveyances or Covenants, with strange niceties of form, and cauetous qualifications, limitations, provisoes, and such like, none like them ; they not so much looking at their first trading into reason, and solid causes, or grounds of things, as into the superficial niceties, as the readiest way to purchase practice with cunning knaves, and most affecting wit and youth, and so are drawn into a way of evill before they be aware, and after it is hard to reclaim them ; and for keeping of those pestilences off of *England*, Lords Courts, they take all the work, which was heretofore the way of educating and bringing into practice the young Lawyer.

And in these last times there sprung up first under the wings of Noblemen, and men of great estate, for the help of the Attorney in Judicial Courts, but as Attorney in the Prerogative ones, a creature called a Sollicitor ; these men rob both Lawyer and Attorney, and all the Subjects : They are oft declaimed against by the Lawyers, but no course taken to restrain them, many of them practizing as Attorneys, under the wing or name of an Attorney ; what fee he hath thus to abuse the Laws and his own fellow practitioners, I know not, but many faults and errors are hereby committed ; and where to fix it, is not easily discerned ; and great men love not to take great pains in such discoveries, without exceeding great profit ; few I fear do justice for the love of justice ; so that having shifted from Sollicitor present, to Attorney absent, 'tis forgotten ; if remembred, the fault is laid upon the Clerk ; the Clerk he turns you back again to them instructed him, which happily is neither Sollicitor, nor Attorney, but a stranger unknown, or a servant gone : But it is objected , you have your remedy at Law against an Attorney in any caufe against Law : So say I ; but he hath his privilege that spares charges, he hath counsel for nothing, and cunning (so called knavery) to boot : And lastly, the Judge must as much as may be favour a servant of the Court, that is, he shall have all lawful favour, and the other all lawful disfavour ; and put any Lawyer to sue an Attorney upon these terms , and the Attorney will undoe him.

To pass over the nicety of going to issue, pleading specially when the generall issue would serve the turn, or such like ; nor to shew how many several sorts of delays the several Courts admit, I shall shortly come to the triyal, which is either in the ordinary set places, as the Courts at *Westminster*, or *per nisi prius*, where there is such huddling, shuffling, quircks of law, unequal hearing, and both for honour, as the Kings or Queens Council order as Benchers, &c. except favour step in, and then the son of a Judge or Kinsman, &c. must make all the Council attend till he speaks (nothing to the purpose too too often) so that I have heard wise and learned men profes, they were ashamed to see great men and Favourites manage the busines out of all order and rule of law, while they knowing in practice (as they term it) that is, versed in the Ministry of the cause, could not be heard a word, as if they were retained only to hold the paper and cry, My Lord ; 'tis truth, there is another reason in it, which is, they have such multitude of Council, that all cannot speak, and the great men must speak best reason; for have not the Prince the choyce ?

Some indeed, either would be heard through boldness, or must be heard through necessity, as undertaking Cases which others either durst not, or could not ; as *Hol-borne* with that noble Judge the Lord Chief Justice *St. John*, in the Case of *Ship Mony* ; and this was a step to advancement, if they shewed ability, and could turn with the tide, or were thought fit of for some other by-respect, as to have their mouthes stopped against Prerogative, and opened as far as the Law would admit for the Kings advantage : Thus were learned *Calthorpe* engaged, and the foresaid now Lord *St. John*, though as I have (to his honour be it spoken) heard it credibly affirmed, he denied to be the Kings Servant upon the Lords day at Council Table (pardon this necessary digres-

digression, both here and in many other places purposely done to avoid treating of these things by themselves) so that unless the Judge were very wise and resolute, having these so many traps, he might ore-slip something, how just soever his intentions were; and the Lawyer might by the like means be drawn to some error in point of Legal advice, as well as the Attorney in practice; for 'tis evident, or will be hereafter manifested, that to gain a certainty of Law, we ran into all uncertainty that might be. To speak of the errors of the Judges servants and their Marshals, abusing both Law, Judge, and Countrey for expedition money, and taking what fees they list, and new Fees, though it be material; yet carrying with it the assured error of his master, who ought to know it better then the Countrey can tell; I willingly pass it over; but must insert, that seldom a Jury is legally pannelled; or if legally, having outward legal qualifications, yet not knowing men able to discern into the now used course of evidence; for it is pitty to see, if not pre-ingaged, which is too too often, they generally either follow the fore-man, or hearken to such a Councillour, or else are tyed to what the Judge seems to incline to, when he repeats the evidence, which to avoid such leadings, might be spared; but in the confusion of the Councils thwartings, if not false speakings, and mis-recitals, in their so claimed due of summing up the evidence, cannot be wel forborn, without a greater mischief then the other possible, yet seldom seen palpable inconvenience. I might evidence the same course of unrighteousness in all subsequent proceedings till execution; but I haste.

These with hundreds of more common abuses in the Law, which did indeed render both Law and Lawyers odious; for this was grown usuall, to get by any means, or having gotten, though justly, to keep by any meatis, and hold play with the others estate; for they could upon a Bond, for example, drive off with good words a quiet man and fore-handed, or a poor man, or Orphan, in regard of their reliance upon the penalty, which in regard of the possible evils, was now grown double, as 200. l. for 100. l. five or six years, or more, then plead *non est factum*; that is, it was not their deed, the Witnesses happily dead, and no other or difficult circumstance appearing, Verdict is either lost, or hardly gained, if it be a small sum, and the Verdict against the Plaintiff, he is not able to get any advantage, but by renewing suit in *Chancery* to put him to his oath, where the charges is so great he is undone: If the Verdict go on his side, then there is motion for stay of judgement to delay; if that over-ruled, then a Writ of Error; if that over-ruled, then the Cause is not sent by the Judges or Justices to the *Chancery*, upon a sight of the equity of the cause, as the ancient Law in *Edward the 3.* was, or seems to be but of course to delay, except the Plaintiff dye in the time, and then all is lost without hope of recovery; and the *Chancery* by right is held not to have any cognizance of any case under 20. l. as if no conscience or equity were allowable in lesser matters, where the falsity of formal customary surmizes be such, that the simplicity, that is, sincerity or plain righteous dealing of the first Heathen Law-givers severely punished, when they first instituted complaints to be in writing, punishing him that complained of what he could not prove.

The excessive unwarrantable proceedings in false suggestions and surmises! yet by these with such like practice in proceeding as in the beginning the cause may grow to 7, 8, 10, 12, 20. years continuance, although the late Lord *Littleton* (who dyed in the strife betwixt loyalty so called to his King, and to the Commonwealth, and was vanquished by personal respects) did openly profess, at his call to that high and honourable imployment, in his speech in the Court at his taking the place, That he had heard causes had depended there 12. years, but knew no cause they should depend 13. moneths, and resolved then to speed an end of all lasting causes, and began with *Peacockes*; But when the Barr began to grow thin, I say not he changed his mind, but his course; pretence of other busines drew him like others before him, to hasty hearings, half hearings, references, and subitane Orders, which with the laziness of Judges and Masters of the *Chancery*, but especially the wickedness of Clerks and Registers is the squeeze of the Subjects purse; for all men know who have had any experience in the world, that the Register makes the Order, rather then the Judge: A chief means of continuing which evil, is (next after the want of due care of the Judges, to read the Order fair written before he rise) want of a set stipend, while he by more work gets more gain.

The last, is, want of sharp and speedy punishment of an offender; this makes Orders

Orders past the ordinary length, and infinitely beyond the rule of Justice in Tale, above 40 Orders in a case (Mr. *Noy*) or I am deceived, moved before the Lord Keeper *Coventry*, when he durst say, (that was Kings Attorney) my Lord I move upon the 49 Order (to my best remembrance) so that the by-word was upon a suit in *Chancery*, you have gotten into a sute of Buff: These things never pierced the conscience of these men, they followed the example of their predecessors, and grew by degrees worse and worse; and thus it was also upon all other proceedings at Law in all Courts, whether upon criminal causes, or other offences against the publike or civil Laws so called, or between person and person; another evil was both in law and equity, the priviledge first of places, then of persons.

That of places partly arising from Order, so called Divine, that is, from the Relative and similitudinary holines of the Temple; And therefore as the Churches were in the time of Popery, and now new pleaded for Popery, as the Cities of refuge of old; and the so called Clergy still as aforesaid, Idolatrously continued with us, so other places were now priviledged, and made the Sanctuaries for offenders, which were the shelter for all insolencies, tumults, disorders, and wickednes, which places were first of separate or special jurisdiction, as Cathedrals, Minsters, and such other liberties arising from pretended Ecclesiastick Right and Title under the Hierarchie Papal.

The other was of the Kings Court, Lords Houses, Inns of Court and Chancery, the Seminaries as they ought to be of good Government and singular examples of order; the persons priviledged were the King, whose person the Laws as lately expounded had generally freed from all censure, and purged all taints by the Crown, and punishing his absolute Ministers was laboured much against; now the reason of this was to uphold what was gained, and to gain what might be for the King; therefore the Lords as the King must have their priviledge; and as the King must not be sued but by Petition, a Royal cheat; so the Lords must not be arrested but by prayer, a Noble flattery; but a most grand abuse arose from this; for much cost did many bestow to get the King, Queen, and Lords into their debt, who never gained more then undoing (the recompence of foolery) by their knaveries, and multitudes of debtors and trespassors bearded Law and Justice both.

Now for Judges, Counsellors, Attorneys, Lawyers of all sorts, or pretenders thereto, the other persons priviledged, they stuck together like brethren, so that hard it was to pinch them, especially two, the Judge for his power, and the Attorney for his priviledges; but of this before sufficient for the present intention. Thus were all matters in distast, as to the great and principal ruling part of the Commonwealth; and head, and heart thus sick, the body sure was in a distemper: for all the Courts indeed, from the County Court to the Court of Pypowder, which I think is (one at least of) the lowest, followed the track in proportion of all the tricks, quiddities, niceties of unjust, dilatory and expensive lawing, used in the high so called, and supream Courts of judicature.

I shall but hint the abuse in Witnesses, there being now grown visibly many more just exceptions against men then the old Laws allowed.

But the great evil in all Courts, was, and is, that the indeed common and most ordinary questions were not determined and settled.

Matters of Accompt, matters of Covenant, which hold partly an equitable, partly a legal right, determinations of litigious questions in Wills; as in case of a name mistaken, in case of a gift given to a child payable under age, who shall acquit the party that payes it; nay indeed the ancient law concerning acquittances real and personal, to me seems lost.

To ravel all and shew the utmost of absurdity, error, and perversnes grown upon our Courts, Lawes and Lawyers, is not by one pen to be declared; all is out of order; I will cease to tell what all know and complain of; there is nothing sought but riches and honour, by what means soever; I wish the Seats of Judgement had been clear of receiving moneys, so called, Dammage clear, which shortly is thus:

A man sues and recovers; now by the Law there is a supposall (and but a supposall, if that be to be supposed, which is well known to the contrary) that the Recoverer hath his debt, or his damage and costs of suit; now the first Law holding forth, and looking

looking at a kind of equity, if the suit were for so small a matter that it exceed not 3. li. 6. s. 8. d. recovered, then it took nothing; but if it were more, then it took two shillings upon every pound. Now although I suppose at the original this was or ought to have been a sufficiency to have tryed the Cause, and to be added to the Judgement, and paid by the Defendant, yet now it comes only to the Master of the Office, who assigns Costs upon the Judgement, and this is paid before Execution, which the party happily never lives to see performed; this was as to a moiety allowed in the Upper Bench. But in the Term, called *Easter Term, 1649.* it was as an oppression; taken off by the Judges; a small beginning to a great work, but fit to operate the clean contrary way; but is still continued in the so called Common Pleas.

In probate of Wills, and suing out Administrations to whom it belongs, whether accomptable, if divers children, or the wife to have all, or the eldest child all, and the rest nothing, with a thousand other things, are so difficult in Law, though easie in Reason, as cannot but be the wonder of any one that sets himselfe to consider it.

Now to speak a little of the Titles by way of Feofment, or bargain and sale, what a world of difficulty in them! I dare say, never a Lawyer in *England* can (especially in the most excellent tenure of the land) assure to any man a good Title, neither Knight nor Lord; and all arose,

First, from the want of care in Judges authorized to enact Laws, who heard of cheatings, and yet gave no stop; for this is sure, he that is able and sells not for need, but for conveniency to better himself otherwhere, will not deceive grossly, because he knows it brings scandal as much as charge and trouble, though his conscience be but loose; but the poor needy Prodigal, that drinks away thrift, and hardly knows, and little cares what he does, he it is that falls upon this trick, and he first entayles, then mortgages, then sells: The entayle is settled by the wives friends to secure the estate to her and her children; they keep this secret; but to keep their credit they will not borrow the money, nor commonly witness the Mortgage: Thus hath he all his deeds, and the dissent appears fair or the bequest, 'tis sold to redeem the Mortgage, the deeds and estate; all parts from the Mortgage, and the buyer thinks himself secure, but is cheated, and the Statute of fraudulent conveyances shall not help, &c. and all the recompence he hath, is the Creditors body, if he can catch it; Lands so settled, pay no debts.

Another way of cheat, is the Statute of Uses, settling of estates in trust to deceive, making long Leases, and such like: This filled the world with infinite jangles; and although an easie and speedy remedy were proposed both to King *James*, and the late King; yet the interest of the Lawyers being now made subservient to Prerogative, all was quashed; so that the Land was filled with multitudes of oppressions, cruelties, cheatings, and extortions, and no remedy, and the Lawyers only enriched thereby, with the Officers of Courts, upon long, tedious and intricated controversies; they were also vexed with old sleeping judgements, which no time being set unto, it was the fashion to keep money in hand upon a purchase to clear incumbrances, and that kept was seldom paid; for to say there was no encumber amid so many wayes, was difficult; to swear it to no end; but to prove it impossible: thus if an honest seller met with a knave a rich and contentious, or contentious buyer only, he gat it not, or so that he had as good have lost it: So for Annuities, Rents, &c. Again, for conveying, there was livery and feisin, the supposed absolute strength, a fine, and the late passage by enrolment; yet none of these absolutely certain; for the fine though strongest, and the five years limited passed, yet if the seller had no right at the time, as many had not being neither heir, purchaser, nor possessor, the fine wrought not; yet this not to be discovered by all the writings produced, which shewed good title; the livery voided *per* some prior lease, and the enrolment not done in due time: Indeed almost all good Statutes are by the looseness of Judges invalidated; for so soon as honest men provide remedy against an evil present, and emergent by act, it is the knaves work to converse with a quick brained little conscienced Lawyer, and crafty Attorney, to find a loose from the Law, which is too oft allowed, and the Judge excuses himself by the letter of the Law.

Therefore I shall now generally declare that the whole frame and foundation of *Englands Government* was loosed, rotten, and vanished, which I thus manifest; Look at

at the Lands, and its evident, that had *Noy* lived, or but the Parliament been deferred, the most considerable part of the Kingdom had been Forrest; upon the claiming of which, what quick work was made in some places, few but know; that which had not been Forrest to the King, would all have been secured to him by Office, as holding in Chief, or forfeiture otherwayes, either upon the chief Lords, or some inferiours want of Service: And as the King had dealt with his great men, so would they with their Tenants, whether Knights or Soccagers; but especially the Copy-holders should have suffered without remedy; for it was grown to this, that as no Jury durst find against the King, if a strong contest were; that is, if it were a matter worth the striving for (and supposed to be, or might be a flowre of the Crown) so neither durst any find against the Lord; nor indeed well could they tell how to do right, either to the Lord, or between the particular Tenants; for the Copies were generally brought to this course, only to name so many, &c. of the Tenants, R. or B. &c. the Rent they denied to set down, so that the Bailiff cheated the Tenant, but especially the honest or ignorant one at his pleasure, and exercised more power, rather Tyranny, then a Prince; for the Fines, they generally drew them to the meer Will of the Lord, and in that were absolutely illegall; and although it was pretended the Chancery was the moderator, that was but to help the Lord; for not one man of a thousand would contest; if rich, seldom but he was a Lord, for every Peasant was now become the purchaser of a Man-
or; if poor, the controversie ruined him; Now let us a little here look at the nature of Copyholds.

Which I conceive came in thus at the Norman Conquest upon the setting of his Commonwealth, as he had laid his frame, that is, that all held of the Crown mediately or immediatly; that is they by greater services, as Dukes, Earls, &c. and the inferiour Lords of them, so all these Lords had their inferiours under them; that as they served the King in his Wars to preserve the publique, so these might serve the necessities of the private Families, as Soccagers to plow, sow, and cut down, &c. and Villains to carry muck, and do all drudgery or meaner work, and were both but a kind of servants; the one yet more free, as having his Land, only paying his Rent, Corn, &c. the other absolutely bound, over whom he had at first power of life, and goods, and all; both yet of which, as the Nation grew civilized and religious, got more liberty and priviledge, so that they became absolutely free; and their present conditions are so diverse from past, though the names remain, that a man will hardly believe such things were.

Yet from these, divers harsh villanous Customes and usages are still continued; all, or any, and every of which are unreasonable and unwarrantable; for the villain or bondman, his Land was his Lords, as was himself, his wife and children.

After it was given him under a Service, but he could not give nor grant; then Services were turned into Rents, yet he had no power to dispose, all was in the Lord; after the policy of the Kingdom being depraved, and these villains being grown too numerous, taking advantage of civill dissention among the Masters, the Servants gained the priviledge of inheritance, but not to pass it by free Deeds, or grant, or sell, but to descend; at last they came to sell, and usage only regulated all this, and then were used as free Lands, all but the way of passing it, which matter of form is most highly penall, even to forfeiture, and indeed these forfeitures are the sole end of most Lords.

Now these evils of forfeitures and the like, though for small causes are grown exceeding penall, mostly from the difficulties and delays of Law, but enough from the rigorous, unjust and cruel principles of the so called Lords of Mannors, which now each greedy griping rich man is purchaser of, and the value according to usage set accordingly. Now these evils arise thus, First all the Jury, who enquire of the forfeiture, are the Lords Tenants, and those that are pannelled are not able or rich, or commonly of any great reach; and the Steward most commonly an Attorney, he is the meer pentioner of the so called Lord, and his improvement of his fortune is to improve his Lords Rents or estate, and that is by searching out old antiquated Evidences for original Agreements, Compositions, or the first or primitive Custome, and then pinch a poor weak Tenant upon that Custome, and he submitting, another, and so on, till all or the most be buxome, and who is able to withstand?

If it be queried why some rich man opposes not; it is answered, few rich men, but are either Countrimen, and then either are, or expect to be Lords; if Citizens, their gaines are great, and are not desirous to spend their estates to enrich Lawyers; and thus

thus Lords and Clowns got into things called still Mannors, broken, divided and shattered, no way retaining their original constitution, through the baseness of Kings, Judges, and Officers, and the interest of Parliament men, few of them whose cause it is not ; the subject, especially the poor, is kept in a base unworthy vassalage, under the constitution of the *Norman Conquest*, and free men engaged by the tenure of lands, and by prevailing and unregarded Custome, to a slavery which was abhorred in the King, yet usurped by fellow subjects upon each other, and that with Prerogatives higher then in any the Princes Courts ; for the common priviledges of extraction and profession, are no way pleadable against their Fines and Amerciaments ; so that I have known a professing Esquire take of a Christian, a Knight and Barronet, his neighbour, fourty shillings for Amerciaments for not attending at his Court, which was paid by him onely with this protest by his Steward, that that fourty shillings should get his Master twenty pound *per annum* ; and where they may call a Court as oft as they list, and too often, as some widdows, so called Ladys of Mannors holding it but for Life, do ; it must be as burdensome as unjust. Besides, there is nothing certain in any Court, either for the Ground, or the Rent, or the Fine, or the Custome, but the legal-pated Steward can, to wreck his spleen, finde a flaw in, and laying his land onely by so much in such a place, if any ground be wood or rich, that is the Lords at last ; and though, as the Law held forth a plausibl remedy to all mischiefs, so to this in the Chancery ; yet it hath been generally found the remedy was so far off, and so dearly purchased, that it was as evil, if not worse then the disease ; and though these Courts might do some good heretofore, yet now there accrued no advantage to the Commonwealth by them, except the multiplying of Attornies, Alehouses, and suits were a preservative for a languishing State.

To speak of Arbitrary Fines, how intolerable, illegal and inconvenient, were to no purpose ; but all these evils grew in the Reign of *Charles* to an excessive burthen.

An other growing evil was the multitudes of poor, which arose as naturally from a long peace ; and secondly, from a want of a legal approved way of disburthening the Commonwealth by Plantations, other then voluntary, lest priviledge of the subject should be touched upon, so fell it out.

A third reason was the multitude of Inns and Alehouses ; the Inns grew upon an old Law, when the *Englis* scorned the lazy life of an Host, and there were few Inns, yea too few for to lodge Travellers ; therefore the Law debarred none from taking up that Trade ; and the Lawyers not having a judgment against it, say it is Law still, though the Reason ceased long since. The other is of Alehouses multiplying in all places ; sure for by-respects, as knowing much drinking raises Malt, and that Barley ; and so the Gentlemen let their lands, and rack their rents more ; so it fills the rich mans purse, and empties the poors. Next, it was the ordinary advancement of a Knights, Justices, &c. over-worn Cook-maide, or his Groom, or happily a cast Falconers fee, or Huntsmans, as the pentions which are now out of the casualties originally instituted for maimed soouldiers. Fourthly, and most imprudently, from the laxation of Laws in the Justitaries of the Nation ; for whereas King *James* found the Nation so governed, that they who could not maintain a wife, might not marry, for a License they could not have, the Bishops taking care enough with their Officers that the poor might not have lawful favor of a Licence, lest their Hospitality might be charged, or impaired by their maintenance, and their publike denouncing the bands of Marriage the fist time ; the Parish for the like cause hindred it the second, if any cause were ; & usually none were permitted marriage till the man were thirty five at least, and the woman thirty, whereas since they coupled at fourteen, fifteen, sixteen, seventeen, eighteen a great age ; this hath bred multitudes of poor, weak and tender poor ; and so for want of due provision roguish lazy poor, for many Statues are, but all to small purpose ; some men being so chary of particular priviledges that they have undone the publike, and to save a Rogue or Whore from whipping, have starved thousands to death ; For this was the course of *Englands* good general Government, they were all one body, and that as men, so as Christians ; and therefore what the Parish so called could not perform, the next must ; if that served not, the hundred must ; if not that, the County, and so forth, and this both for a stock for work for those could work, whereby they knew the laborious poor, and lazy poor, and could afford incouragement or discouragement accordingly.

Next for maintenance for those could not work, or not to maintain their charge ful-

ly; This now was in times of Property reasonably supplied, partly by the Deacons, the proper Church Officer, and partly by the civil Officers of the Town, Charity being then the high step to heaven, applauded by men, as declared by *Paul*; and though the great Charity went to Monasteries, Friaries, Nunneries; yet these were pipes which afforded some refreshment to the hungry, thirsty, both strangers and domeslike; but now there were new Laws, new Provisions, new Officers, and all to make supply; yet the work grew so difficult it over-mastered the Actors, partly from the reasons aforesaid, but more from the nicenes grown upon the Law; so that the Justice of the Peace knew not what to do; whip a Rogue, or loose person, or such as the Law held forth seemingly liable to the lash, he was sued, and there wanted either such cause as Master chief Justice thought fit; a Warrant of Commitment, or a legal so called Warrant, either it expressed no cause, or not thought sufficient cause, yet the cause in it self more then enough; either it was to Bridewell where it should be to the Gaol, or the Gaol where it should have been to Bridewell; this for Rogues: Then for idle people that would not work, the due order of assessing wages was left; so that what Rule to keep, who could tell? multitude of young people living at their own hand; some commonly reputed to live whorishly, others knavishly, others theevishly, for they neither wrought, nor had of their own, yet lived highly; to complain was unneighbourly: so they went on; yet if complained of, what could be done? they answered they would have Services if they could; yet if in Service, they would do nothing, nor tarry but their own pleasure, or do but what work they pleased, and wages they would have as they list, and compound to do what they list or be gone; and the Justices were so terrified by the Judges, and the Masters by the length of suits, as all was grown to loose liberty.

For the binding out of Apprentises, a good and wholesome Law, that the poor educated in better mens houses might be trained up to be fit for imployment, as Husbandmen and otherwayes; truly through the peccish wilfulness or niggardliness of some men in Authority, it was assumed to be against the liberty of the Subject, to impose a servant upon him; and few or none will take willingly, so that the Law requires it, but none looks at execution; if any do, the particular Justices must upon refusal binde them over to the Sessions, where he shall be plagued, and as he saith, maliciously vexed with attendance, and pay fees, and then nothing is done: 'Tis truth, the Law holds forth a way of raising stock to put forth Apprentises; but this is as litigious; for there is much ado to make a Rate; if they will not do it, binde them over to the Sessions is all, and there Lawyers make such work for their Clients, as home they go without Fine or other punishment.

And generally the great persons are most backward; many think scorn to be rated by their neighbours, and if they rate them, they will pay nothing, or not above their estate there, which happily is two or three hundred pound *per annum*, and may come to six pence or eight pence *per monetum*, and they have one, two, three, four, five, six, seven, eight, ten, twelve, twenty thousand it may be; and how do they spend it, but in pride, riot, vain excesses? for generally they either live in Cities, and then charge them otherways then they like, or list, they are gone; or in small Towns, that is, where they may have no neighbours, and there they have Cottagers servants, but no other; and some by this means pay not one penny in a year to the poor but their offall; well, they make a Rate, the payment is refused, what course now to come by it? some Rates are to demand, and within six days a distret, others within four days; some by the Constable, some by Warrant from the Justice of Peace that signed the Rate; some of any Justice; some the distret is taken to be sold presently, some within four, some six, some eight, some ten dayes, some the overplus is to be returned; some deducting charges, some certain charges, some uncertainly; and so for Forfeitures, and so Warrants; some things to be done by one, some by two Justices, whereof one to be of the *Quorum* upon penal Statute Laws, &c.

These variety of Laws were the Lawyers gins; for seldom but the poor Officer smarted, for that the Justice to avoid quarrel with him, left his Warrant with this general clause at last according to Law; which the poor Constable taking simply, according to the literal Tenor of the Warrant, he seldom went according to Law: Thus was all due proceeding, and the substance of Government lost, to preserve a fair husk of so called priviledge of the Subject; but the husks vertue had this attractive, that all the idle money, and good money of the Nation was dreyned into the Lawyers

Lawyers purses, and the difficulty of the Law was invented by them assuredly on set purpose only to keep up the Trade, and not discovered by the Judges, nor discountenanced, upon the principle that every one had their times; so letting of servants at Petty-Sessions, and their not departure without a testimony, and such like, all grown to disorder; and the rather because now even the honors of the Kingdom were as aforesaid made mercenary to the ends of Covetize and Tyranny; and the debauchery of the Gentry spoiled the whole Nation, so that the ancient Gentry, whether of *British* or *Norman* Race, was lost wholly in the puddle of foolery and fashion; so that put a childe into either a rich man, or Gentleman's house, and they learned nothing but the foundation of beggary, they there growing onely nice, neat, lustfull and lazy.

But to return, Thus were the Justices and all Officers made tender in execution of the Law; and thus the Law extinguished: And hence it grew, that even Felons, Murdetors, and all criminous persons had at last as much favor, as baseness, negligence and security could afford; for no Hues and Cries were at all prosecuted with effect; for no punishment where they ceased, and the burthens of Constables in their services were such, and the office now put on the meanest persons for vexation, that little knowledge he had of his work; he ignorant, and the Law thorny, both for understanding and execution, so that he onely put off the work; but to act vigorously, or with care he durst not, lest his own fire should burn his own fingers: for if he were diligent, and apprehended a Rogue, he was bound over sometimes to prosecute the Rogue or Felon for want of an Attorney for the King, or his not executing his place duly; yet all Processes were by indictment at the King's suit, but however as a witness; and Indictings, and Recognizance Fees made them soon weary, besides three or four dayes attendance, and not one penny for all their charges. Thus were Rogues encouraged, and obstructors, and disobedient to the Law, Government and Reason, whether for Covetize, or worse ends sake is evident.

But the justly feared end of all this by wise men, was, that by the iniquity of this frame now wholly and visibly naught and lost, the Subject might be enforced to submit to such Rules of Arbitrary Government, as the King by his Edicts, whether personal, or from his private Council, should send forth; to which all they of his Council were fitted, and all his Lords and Gentry to them by the means aforesaid.

Now that this evil is fain upon us, is evident: is it not known to all, there was no due return of Warrants by the Constables for execution of Justice twixt man and man, but that the party must enforce or secure the Officer, or nothing done? yea, the Sheriffs of Counties from the niceties of Laws would not execute a judgement without security to bear harmles, rather venturing breach of oath then the rigidity of a suit.

Now one Reason will manifest this was not unnecessary on their part; for their at least practise of the Law did bear, that if execution were upon another man's goods, though in the shop of the party, and of the same condition with his Trade, yet upon a *Trover and Conversion* (a figmentitious Action) the Sheriff must be overthrown; these were the ways to prepare the Free people of *England* to slavery and absolute vassalage, they doting upon their so called Laws: The Bishops corrupted the Prince, the Princes corrupted the Judges, and they being the speaking Law, the dead letter did little good; so that it was time for *English-men* to look to themselves; here were Symptoms enough of ruine, threatned both to soul and body and estate; but the wayes were dark; for the contrivances were fitted to every capacity; say Popery was intended, nothing less, the Laws sharp, and execution visible; as to the first part, calling in question, indicting and conviction, all this brought gain: The next step was gain also, that is, discharge upon composition.

Say Tyranny was intended to be introduced; no, you have your Judges, both sedentary in the ordinary Courts at *Westminster*, and Itinerary in the Counties, and they gave the Law; where was the King to be blamed? this suggested, and the evil continuing, the King walks higher, and by Patents of grace so called, that is, the meer Will of the King, he inhibits subjects their Trades, and under a colour of mischief brings in an inconvenience; that is, to prevent an incertain charge or loss, he imposes a certain charge, and this contrary to Statute-Law; these were called Monopolies; *London* gained as much by this destructive chaffer as any place; truly engrossing all Trade to her self under pretence of regulation, which is necessary for the outward formal pretences of Companies of Merchants, for well-making, ordering, selling, &c.

of commodity is good ; but to leave them that are Masters of the company, to the sole making of the Laws, and execution also, is destructive ; they are like Benchers of Inns of Court (no Sir, lets not make Laws to bind our selves) as if the place had given all power to them, they make Laws only subservient to their own ends ; I shall exemplifie but in one, petitioned against in Parliament ; these Merchants having places of Mart or sale, the Masters agree in private, send away their commodities, and some dayes after declare where the Mart shall be ; theirs are either arrived, or half way, or prepared to the voyage, when time's so scanty to others, if at all possible, that the Market is over before they arrive, or near it. They also put exceeding charges upon admissions, &c. and no accompt but to themselves, which in the consequences may be destructive, not only to the private person, but body politique in amassing Treasure.

The lesser Corporations were, for marking, measuring, sealing stoffs, linen and woollen, with a Crown Seal forsooth ; and these were his Majesties gratuities to the Lord of, &c. Marques, &c. Q. Mother, Lady Nurse, Groom of the Stool, that is, the Close Stool, whether King or Queen (high and advantageous honours) and this descended to outlandish, as in Land commodities ; yea, to pins and brooms ; and it was said, to Rags for paper, and Marrow-bones for Kitchin-stoff, or grease : Next, he found one so base, as being a Lawyer, to take a pattent to have the first motion (in the strictest sence) or to be heard in all cases before any other, which the Judges wisely quashed in the shell, hearing him, and shewing obedience to power, and fulfilled this Patent therein ; and then declaring by an intimation of a rigid dislike, that the Authority pretended could not (that is with safety) grant it ; for the Lawyers would be stirred who had the key of Knowledge, and they once disaffected might be like a spark in powder.

All these had their success, because they by degrees falling upon persons or trades only, they even upon advice desisted generally from more then expostulation ; some few brought Actions, and were killed with delays and frowns : Then the King intends a Master-piece, which was at once to quash all controversies by a flight and sudden judgment, having a colour of Law, but no substance ; and this was by an universal charge upon the whole body of Subjects, so called Ship-Money, which had for foundation thus much :

The Kingdom was an Isle, the defence Shipping, the Navy was decayed, the King must replenish ; so he rigs his Ships, and sends them forth (to take the ayre as the idle ones said, but indeed to inure bodies to the Sea, settle them under pay and discipline, and so engage dependance) they return ; and whereas heretofore the Maritime Counties sent forth Ships, and the Land towns paid ; now the King would provide all Ships, and they all should pay ; now this was clearly done only to enhance the so called Crown Revenue ; for the Subject saw no Enemy, and so no necessity, the original cause of that Tax ; a general peace was held to the out side with all Nations after the slaughter of the gallant English at the Isle of Ree, and the dismanteling of Roched.

But the upshot was, the King must be judge, nay, sole Judge of this necessity ; and this is queried by the King to his Judges, which to prove the assertion before they were all King trodden, that is, had engaged all their abilities to his meer will, two onely of twelve in this so important a busyness, as indeed the whole life of the Subjects Liberty was involved in it, as to his estate at first, and for denial of that to his restraint, durst assert the truth ; which two onely I shall own as men noble and honest, Crook and Hutton ; and though both or one were by the plurality of Votes ingaged to the first Quare.

Whether the King were sole Judge ; yet upon the Tryal brought by that true Patriot Hambden, they righted themselves and the Nation to the utmost ; and honest Crook spake true plain English reason, and good Law while mercenaries blundered upon the work ; and had they taken Barclay's Argenis, and read the discourse betwixt Polyarebus and Hyaniabe, touching such taxes, they had saved their credits, as only declaring the judgement of an Alien to English Liberty, and reserved themselves.

But now 'twixt Truth and Loyalty so called, they were confounded, and gave no satisfaction, no not to the well-affected to absolute powers ; and by this notwithstanding

standing all power, the Subject was emboldned to deny, and at last, after some two or three yeer, the King was enforced to desist; and surely his cogitations were for Armies; how providence prevented, there being so many discourses of it, I shall omit, only with this hint, That these fore-runners manifestly declare, that the Arms in *Ireland* raised by his Commission, and continued in *England* against the same power of Parliament (Assertors of the same Common Liberty by the Nation owned and petitioned for) were undoubtedly the effects of the same cause; namely, the subversion of *Englands* Law and Government, the peoples Liberties and all Rights, making the King by his meer free will the absolute Arbiter of all actions civil and criminal: Thus in brief, I have set down some of the visible preparatives to *Englands* Climacterical Revolution, which it now labours under. In the discussion of the State of affairs civil, and so called Ecclesiastick before, but especially in the time of the late King; and all shews, that plainly there was left no more then an outside Christianity, or formal Religion, the temper of the clay of the world, the pravity of Reason in the depraved principles of policy; the iron of reason in the variety of species of Government; and the gold of Christian simplicity, the gold owned in the Scriptures, by Authority allowed; the iron in the rational formal profession of the same, and the consequences thereof; the Clay in the false and unsequential glosses, to make mans rule and absolute Government the highest and last refuge of every man, and that for a particular persons end, though in publike trust; for that trust was laid not so much to be for the peoples benefit, as his own.

These things premised, I might omit the passages since, as being fresh in every mans memory; but at the desire of some, I shall go on in the way of a cursory Historical Narration; repinings and grudgings by and from the actions of the King and his Ministers growing high, so that it was not thought fit to proceed without some force ready, for fear of insurrections, which were indeed desired; and therefore the people were affllicted, that they might rebell and bring themselves into slavery.

The King having received the platform of alteration of his State from *Thomas Earle of Strafford*, he is made his Agent to keep on foot a strong Army in *Ireland*, who, to speak truth, were a company of men fit for as high an attempt as they were intended for, but being Jesuited in great, if not the greatest part, they might have double designs, that is, rather to embroile all the Kingdomes, and fit them for the tooth of the *Spaniard* their universal Patron, then for the Kings absolute settlement in *England*, whom they truly knew not to affect the Popes interest, further then it stood with his own, which is truly the Maxime of all Princes, however they carry it.

Upon the confidence of this Army, he is fooled into a quarrel with the *Scots*, and was undoubtedly made beleieve, that to let the *Spaniard* land 10000. in *England*, was the only way to set all right; and *Wentworth* a man of depth of policy, and courage, might over-confidently accept these counsels; the truth I shall not prolixly assert, God having providentially cut off that *Qwere* by the Sword of the *Hollander*; but their course, lading, provision, number and quantity of men and Commanders, quality of convoy, and backs of carriage, besides the testimony of divers, all tend to demonstrate the same; nor for the same reason shall I argue how cross and incoherent we see these Councils were; for fools see errors when the cast is plaid, which the wise Gamester studied for, and could not descry: This, as it hastened preparations on the Kings part for war, so it enforced him while yet unprepared, to hold out the Ensigns of peace; and what no advices could produce before, is now for interest sake granted, namely, a Parliament, wherein all under-hand proceedings for elections not being able (such a general dislike being in all men to the King, and his proceedings) to work and mould it serviceable to the Kings ends, he as soon dissolves as calls it.

This breeding a deeper distast, and he not yet fitted; and seeing the people now fell upon petitioning rather then rebelling, relying upon the Parliaments united power, rather then upon their single personal rights, and would sooner venture to set down with an unjust loss of part from the Kings power, then loose all to his mercy by an unwarrantable course,

He calls a Parliament again, and to this Parliament are brought so many complaints, that I fear the bulk of Petitions and Remonstrances will affright our Worthies for looking

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looking into them, and let much necessary work lye undone, not giving due reparations to many persons against publike Theives and Extortioners ; Now the Parliament made no great haste, and the King was urgent for money: which they taking advantage of, and of his former, not only declining and breaking up or dissolving Parliaments, but his neglecting his own Laws, that is, those to which he had assented ; they upon the ground laid in his third year, insist to have an Act for setting this Parliament, till dissolved or prorogued by themselves, notwithstanding an act for calling a Parliament every three years, thinking no knot too sure to hold what they still found loose; which effected, with some other things, they then fall to work with the Earle of Strafford, that had power enough to have done all he intended in an ordinary course of providence, had not vain confidence that he could do it when he would (as the Almighty determined) befooled him ; he surprized who was the Master-dear, the herd flye ; and though accused by the Kings great Council ; yet his Majesty having affections personal, notwithstanding the supream publick trust in ordinary, gives them his pafs, and by the means of his Admiral, they were set safe a forreign shore ; and now himself labours to his utmost the safety and preservation of that man, who had ruled in *Ireland* to his utmost in that absolute way he intended his Master here should, as the Cardinal *Richelieu* had done in his *France* ; the great pleas on his side were, what he had done, was for his Master the King, by his special command, for which he had his warrant, and for all Moneys, his discharge ; and if a further offence were, it was against no existent Law ; if *Treason*, &c. not within the Law of 25. of *Edward* the third, which was made with much advisement, to preserve the Liberty of the Subject, and consequently his life by a certain knowledge of his dutie.

vid: May 8
Histo: p: 89:
Lib: 1:

m: H. Lib. 2.
p: 35.

To which it was answered, that his trust was to the Commonwealth ; to the King in his Politique, not in his natural capacity : and his personal receipt, warrant, or allowance, was not sufficient, but they had power, yea in case he had had a legal allowance or discharge in ordinary, yet for the Commonwealths sake which includes both king and people, to call him to an account : And to the last part that it was against no Law existent, They said the Parliament was by the Stat. Judge of *Treason de futuro*; and to oretrow the Laws and government, was more then to destroy a person : to ruine a kingdom, then kill a king ; and therefore (I must agree by importunity) forced the King to assent to his death; which effected, and not dared to be recalled, all plots and policies left are used to break up the Parliament, by the King ; yea an attempt made upon some Members to sacrifice to the Ghost of *Strafford*; but all failing, and yet manifested, the Parliament think fit to have a guard ; the King practices the Army ; the Parliament Vote no less then 400000. l. And with that disband the Army ; the King thus lost every way, and the Army in *Ireland* utterly lost by the grand Rebellion there, taking many of them part with the *Irish*, if not most, and this still giving harsher resentments to the people, whose Liberty was now grown great, and the Parliament loth to hinder them while they served their turns, many not only sleights, but affronts were put on the Kings servants, reflecting upon himself. The Bishops now shew their sure Rock was he, and they wholly cleave to him ; the Lords, many joyn with him, many against him, and many appear not ; the Kings Agents, whose designs had been nipt here, being now in *Denmark*, *Holland*, *France* &c. moved for assistance against the Parliament of *England*, as the *Irish* Rebels do there, they seek the same things, and under the same pretexts ; so that the King is said, and not without some ground, to be the chief Actor in all ; so loth he was to call the *Irish* Rebels.

This causes the Parliament to talk of raising Armes, not only to defend themselves against the King, and those with whom he came to the Parliament House, and kept still about him, being generally a crew of Jovialists, debaucht persons ;

But to offend such publike forreign Enemies, as under the Kings Name should be brought from other Nations, or raised here ; to which there was such an unanimous loan of all sorts, especially the Religious, who found a change indeed in their condition, That they from that took the hint of the strong affections of the people towards them ; and upon that Vote the extirpation of Episcopacy, the which the King so long contending for, and so eagerly, ruined himself with them. How far this is to be read out of the *Revelation*, I shall not quare ; but say, it was long foretold out of that prophesie,

phesy, and now fell out ; they gave themselves now to treat of Reformation of the Church ; but this rooting up Episcopacy took many from them ; they had voted and acted against pluralities, as to settle the Church, and gave the Judges a settled and sufficient salary, pretending to take away all other Fees from them, but proceeded not.

The King fled from *London* ; the Convocation they follow his shaddow, the Parliament call themselves a certain number of men called Ministers from all parts, and nominate them the Assembly ; these sit as the Clergy of *England* ; the King, after many Traverses, having gotten together an Army, comes to *Oxford*, whether many come from the Parliament to him, as well as went with him ; there he erects or allows a new Parliament. And by their advice, as his Parliament at *Oxford*, demands Treaty with his Parliament at *Westminster*, which they reject ; and at last the Lord Keeper of the Great Seal. *London* indeed stood true to them, which by its Vicinity to the Parliament, and infinite populacy, awed all other parts ; they had a sence of former sufferings under the power of Kings ; they had a deep sence of the extremities the godly and most piously affected people suffered in all parts of the Nation ; and how far the vicinity of the Court, and Archbishop of *Canterbury*, had violated their Christian Liberty, prevailing over the quiet spirit of their Bishop, was though little, not forgotten ; they therefore generally followed the Parliament, especially stirred up by their Ministers, as having in hand the cause of God : The King he brands them all with Declarations of Rebellion, and taxing them with seeking his life, and the rooting out of his Posterity.

They answer, that they were so far from seeking his life, as that they should labour, by all means possible, to defend and protect the same, their just Rights and Priviledges preserved ; and for his satisfaction cause the Nation generally to enter the like Protestation ; this not satisfying, but it being still urged by the King, that the Protestation was but to establish their own power, not secure his fears ;

While their Armies were in the field against the King ; they answered, They were only on the defensive part ; and such indeed was the Generals Commission ; and that they could not but according to their trusts preserve the Laws and Rights of the Nation : Hereupon they open the Law, that the King was indeed but the chief trusted person, and that for his peoples sake, that of this not be only, but they also, and more especially being congregate into a body were to judge, that his failings past demonstrate, his ends contrary to publike interest, and resolve that even the Law of Nature taught self-preservation, and that it was too too visible he intended an usurpation upon their just Priviledges.

That they desired his preservation, so it might consist with the Weal-publick ; and therefore desired him to leave the company of evill men (so called his Counsellors) who mis-led him, and to adhere to his great Council, and promised to make him on these terms the most Glorious King that ever was in these Nations ; and now a diverse part appearing upon several grounds and opinions amid the Members of the House, the prevailing party to firm the union betwixt the *Scots* and them more strongly, whose assistance they had had all this while in the work, they frame a Covenant, which held forth security and glory to the King and his posterity, in endeavouring to settle Church and State upon the firm foundations of Justice and righteousness, which taken in *Scotland* is transmitted hither, and they by Parliament made brethren ; and this is tendered to the King to sign, being first taken solemnly by the principal of the Nation, with this condition,

That if the King agreed with them in it, they would still not only acknowledge him their King, but make him more glorious, &c.

But this was so penned in such general terms, that an absolute Royalist might well take it ; for it was intended by the some, I say not the many, by the leaders, not the followers, but as a measure to try the stretch of every mans judgement, opinion, or interest ; many no doubt took it cordially, many formally, some strictly, some loosely ; but though this were not only taken but urged ; yet Armies were continued against the King (as he said) in the field, against his evil Council, as they said ; 'tis truth, their evil Council was now his, the Lesson of absolute power, and to be like his Brethren ; the rest of the Kings who had joyned interest with the Whore of *Rome*, made him not only hold correspondence with that Beast, not only at bed and board, but

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Council also, as far as served his interest, who undoubtedly aimed to rule in all things according to his own Will, which Will, yet, should have had Regulations; but still with such dependence upon his Judgement, that he being the speaking Law, would have had no Interpreter that should be able to cross him and his determination: and so the Law must have spoken in all things to his lust, or he would have made it; and this he thought, and I am perswaded believed to be the undoubted right of all Princes; though their people as his in case of contest between competitors for the Sovereignty might wring something from them of Grants or Charters, or so called priviledges or immunities, which yet he believed they could no more grant to the prejudice of the Crown, that is, of the heirs and successors in the Kingdom, then things sacred to God could be employed to prophane uses.

Not. 6. This doctrine admitted, which I dare avow was, and can prove sufficiently by Witnesses yet alive, That our late King *Charls* said these words openly upon a Hearing. (Mr. *Herne*, I have heard what you have said; What do you talk to me of Law, Justice, or Conscience? (according to all which Mr. *Herne* alledged the Patent signed by his Majesty to be) I tell you, said the King, there is nothing in *England* shall stand that is not for my profit; There stands one (pointing to Sir *John Banks*, then Attorney General, who had hundred of pounds, many I have heard for the work, and drew the Patent) shall bring a *quo warranto* against the Patent, and see then what you will do.

Now take notice this Patent was of the new invention of Salt, and opposed the Monopoly at the Sheilds under the favor of deservedly beheaded *Hambleton*, and the Inventor not complying with the Kings Interest against the priviledge of the Subject, the King brake not onely his private word with him, contrary to particular engagements under his Hand, carried by Sir *Charls Herbert*, but also his publike word as King; this sentence being so ruinous to the man, made the Worme speak, and said, Sir, Dare you be a King and be thus unjust! I never read of Tyrant said so, what ever he did (or words of like effect;) whereupon Lord *Dorset*, with a great oath (by his Maker, as I express it) said, loe (and if it please your Majesty) these are your prick-eared Rogues, the Tub-preachers (and indeed he was a Zealot) these are they will pluck you out of your Throne, unles you dethrone them.

I pray take not this Lord for a Prophet, unles like *Caiaphas*. This word I could not but insert for conscience sake, as a firm Index and testimony of his reall intentions; This kept him off from closing with his Parliament, and the rather because they insisted to have the Sword in their power for so many years, or during his life; tenderness of him caused the Parliament to venture far; for it could not by this sole defensive way, but protract the war, discourage the souldier, and in fine ruine them, giving the King time to raise new forces at all times, if they could not gain his person; and this experience taught them so, that after many cumbats, their Armies freighted and broken in great part, their full purses being profusely clean emptied; for who being an English man did they think would have opposed the power of the Nation for a sole persons sake? but by the just hand of God, and to bring to punishment such offenders as the legal sword would never reach, he inclines mens hearts to follow the King, most of them yet Papists or meer formal Protestants and debaucht ones; the generality of the so called Nobility, Gentry, and Clergy especially all in honor, or that bowed to that Idol; among them were also many men of very tender conscience, zealous of truth, and performing (at least to men) righteousness.

On the other side were at first all the vulgar, all men generally eying God in his wayes of providence, poor despicable creatures, yet full of faith and knowledge; these were of several opinions concerning God, his Names, Attributes, Essence, our Saviour, the holy Spirit, his service, their own duty, publike and private; that is, their duty to God, and one to another.

But two especially were powerful in adherents, The one called the Presbyterian, the other the Independent; the main differences twixt which I shall, as far as I can here, succinctly lay down, not upon their nice critical distinctions as Schollars so called, but in the plain way of rational difference. Now truly I see no difference as to the points of faith; they acknowledge both the Father, Son and holy Ghost, the end of the Sons mission, to offer salvation to all, but effect it onely to those believe on him, whom he hath elected before the world began, in due time calls, and at last saves, not for their works

works sake, or ought in them, but as he elected them, not because of foresight of works, but of his free grace, so he saves them; that good works and obedience to the Law, are the outward Testimonies of a Christian, but not infallible, for the Law condemns, no ne can perform it; That Christ onely justifies.

They indeed seem to differ about obedience to what Law; the Presbyterian having still an eye to the at least equity of the Judicials; but I presume if throughly examined, easie to be reconciled: Their main differences then one would think might be easily determined, but they are thought vast and irreconcileable, and they are these:

First, whether an outward and visible succession derivative, not onely from the Doctrine of the Apostles, but also from their calling, so supposed, is of necessity to the true Church, which is really the same difference betwixt the Presbyterian and Bishop, and Bishop and Papist; the Papist urging it against the *English* reforming Bishop, and so the Bishop against the present Reforming Presbyterian, and the Presbyterian against the Independent so called; now the plain Question hath this involved difficultie in it, as I conceive;

That is, what necessity of imposition of Hands? for if it doth confer Grace, an Apostolike vertue being tyed to the Successors of Bishops, Priests, Deacons upon that promise of Christ, *What ever ye bind on earth, &c. or I will be with you to the end of the world;* or inclusively from the effect of imposition, That they receive the holy Ghost; then it is of necessity; but if it be but declarative of the designation of the person to the office of the Ministry, then it is not of necessity, unless specially commanded, which wil also here shortly determine the busyness of Confirmation of Infants, which may seem to have warrant thus far in Christian Congregations, That men and women baptized Infants, and after they come to age, walking blamelesly, may and ought openly before the admission to the Ordinance of the Lords Supper, be examined by the Pastor, the Congregation, or such as will present, concerning the hope of their salvation, which allowed to pray for the blessings of the Lord upon them, and to confirm and strengthen them in this faith, I believe is, and will be acknowledged, and duly practised in convenient time.

And last, and in chief the Independent hold forth the particular Rights of particular Congregations; that is, each Congregation is subject to no other head but Christ in the things of Christ; that is, to govern it self according to the Scripture, without any superintendencie of one or more persons, or Churches so called, that is, Congregations of Christians.

The Presbyterian differs upon this, as holding forth no order, but introductory of an absolute confusion: Now the reason of this high judgement, is indeed upon very high consequences, which rather the practises then the principles of the Independents declare: for let the Presbyterian speak out, and he faith, the Independent razes the foundation of Church Government several ways; and to profest the truth, their Tenents tend to thus much and no more, nor otherwise destroying Government or order;

That *Rome* is *Mystical Babylon* literally; That all the Nations, Provinces, and Kingdoms who partake of the fornication of that spiritual Whore, that is, walk upon her ground-work, shall partake with her in her plagues; that this Cup which is in her hand, all Nations, at least called Christian, have drunk deep of; That the so called Ministry of *England*, holding no Call but the outward, or that principally, and this derived from, or by the corrupted Whore of *Rome*, is no true Ministry, or at least not the true Ministry; That neither are the so called Lords Bishops, nor the domineering Classis of Elders, whether Parochial or Provincial, the officers of the Church, warranted in Scripture for the designation of Pastoral duty or ability, That resting in the whole Church, or community of believers gathered into Congregations; That all of them being corrupted, nay, lost both in Doctrine and Discipline, are to be gathered anew; all that are in the Parishes, though holding forth the profession of Christ, yet walking clean contrary, are not by the power of Baptism, or that Covenant (implicite, that is, being bound not by their own words, but the confession and ingagements of others) absolutely in the Church, and so to have right to the Ordinances of the last Supper; but that before they be received they ought to give satisfaction to the Church (that is, that company of believers to which they shall joyn themselves) of their faith, and the hope they have of their salvation, and walking accordingly; and these are hence (justly) called those of the Congregational way, commonly called Independents.

Indeed the Presbyterian holds the same with the Bishop in every point, onely the

person of the Bishop, as the Head or Angel of the Church, is he in whom, saith the Bishop, the power of the Church specially rests, and the great trusts of Ordination, and Confirmation, and so Excommunication.

The Presbyterians say in the Eldership.

The Independent in the whole Congregation.

It is truth, these things were and are otherwise received by the vulgar and multitude: The Independent so called, being burthened, both by Bishop and Presbyterian with all calumnies; as the Presbyterian being envied much by the Bishop, being as his Opponent, and by all their followers; and that just as the Papists had in the first Reformation branded the Church so called of *England*, governed by Bishops, but denying the Supremacy of the Pope, and therefore cursed by them as Heretics, Schismatics, Adulterers, yea Heathens; for by their rule we had no Ministry, no Sacraments, and so consequently no Church, because not holding of their head the Pope.

And in the word of a Christian, so doth the consequence of the Episcopal and Presbyterian Doctrine brand the Congregational way; for they say, no Ministry but so derived as by Succession from the Apostles; and that admitted, they must hold none have power to administer the Sacraments. They all differ also about Government in the Church; the Bishop and Presbyterian much what alike, both indeed making the officers of the Church the Church, as *Rome* doth; so as the Church taking the Government solely into themselves, count all other Christians as Lay-men; they had as good say Heathens, if throughly scanned, and they onely the Clergy, the Priests of the living God, & so indeed claim a magisterial power by the same Rules, Order, Arguments, and Distinctions and Differences, as *Rome* doth, yea, over the Supream Magistrate, making him their rod of iron to thresh the Nations, that is, all opposers of their Classical Edicts: These men gave the Magistrate no more power then the Pope; for as he, so they were the Church, the holy ones, the Saints, at least representative.

To these, men at first gave great regard; but many wile Heathen Lay-men feared these mens unskilful lording it over the Lords Inheritance; for they presumed these rash Novices in civil Discipline would drive higher then the Bishops, who had gone before them; Surely, if the Bishops, men trained up at the Courts of Princes, after they came out of the Halls of Lords (for the Chaplains of great men came generally to Episcopal Thrones or Chairs) and so had still had a reflection upon the order of civil Government, and had undoubtedly improved their natural, as well as so called spiritual Talent, if they had lost themselves, and ruined Government, through error in Judgement, &c. or dependance: what would these who came but from the Pedantical Tyranny of the Universities, and foolish idiotisms of *puer-putes*? I intend this to meer Scholars, and give them but their own language, which I presume they cannot but apprehend.

These considerations made the Parliament at *Westminster*, while yet unshattered otherwise then by defection (base unworthy defection! they should as men have had resolutions worthy their trusts; but their cause, it seems, gave no courage at first) to declare against these powers of Parochial Presbyteries to this effect, that they did not intend to raise nine thousand odd hundred Seats of Judgement, or Judicatories; that is, so many as there were Parishes of *England*; the least of which shold have more power then the Parliament of *England*.

And I think few men knowing but will agree, that the name onely of Bishop should have been suspended or extinguished, but the same power, yea, that so called by the Presbyter unjust, being exercised by the Bishop, the preheminence being now in the Presbytery, the same had been allowed; and indeed it pleased God so far to give way, that these men were throughly tryed; for the Parliament did (not seeing all at once) constitute Elderships to be chosen, and improved some men, whether intentionally, as supposing that Discipline best, or so called, politickly to discover their temper, I determine not.

But these men presently fall hot upon the work, and what had but just before ruined their predecessors the Bishops, and been their stumbling stone, namely the Non-Conformity of the now called Presbyter, becomes the Presbyters rock of offence against the so now called Independents: And to assure this, after the manner of the Apostate Church, they call for the secular power (or the power of the secular Sword) and an Act was said to be prepared, they talked much of it,

That

That no Non-Conformists should have a liberty to bear office, either in Church or Commonwealth: It is truth, the rigidity of some its probable, seeking not only the Supremacy of power, but an addition of wealth, for by them also were sought outward honor, riches, Lay-power so called, and what else was of the old Babels trash to adorn the Church, and by them called the Churches Rights, bounding it to the so called Priesthood, was by these as much eyed as by the veriest *Babylonian* in the world, and the Commonwealth of *England* still made the Stalking-horse to their lucre; and the base men of a rout of people, so called also *Cleri* or Clergy men, in whom, if St. *Paul* left the Qualifications right set down, were rather the Priests of *Bacchanals* if not of *Bacchus*, then Pastors of rightly constituted Congregations; and these altogether take advantage of an Ordinance made for Tythes to give the denied treble damages; they also upon the same grounds, get Acts, Orders or Ordinances for uniting Parishes, and could inform untruths for advantage, which appearing, the union is for malice, not conscience of the complainer dissolved; for could the persecutor have had his Tythes but for half value, all had been whist, but the Priest saw not where such agreement would rest; he might undo the Church, that is, his Successor by that means.

Wills Probation fixed as they were under an uncertain irregular way and illegal, till established; they continued the Marriage of persons (as a Sacrament) to be the proper work of the Priests; Baptizing Infants the eighth day, held, if not by the wisest, yet by the most, of necessity to salvation.

Yea, some held, That the Sacrament of the Lords Supper was a converting Ordinance, and so to be administred to all to whom the Gospel was to be preached, namely the most prophane of any.

This to many seemed rather an allowance Politick, then Religious, to gain a party then to give forth a principle, untill some leaders were found publickly to avow the Tenant; but this licentiousnes lost them the best and most considerable party. I shall not further wade in these Controversies, nor had I gone thus far, could I have other-ways well cleared what is to follow;

Namely, that the Magistrate eyed these Tenets, as sorting with or against his interest, and accordingly seemed to allow or disallow; The Presbyter struck so high at the root of Magistracy, making them their meer Executioners, and bringing by Text of old Law what was given to the Priests more imperiously into the *Cleri*; and on the other side, the so called *Erastian*, giving all to the Magistrate, not as of the Church, or in the Church, but meerly from the Civil Jurisdiction, and totall subjection of the whole course of so called Priests unto the meer will of the Magistrate, either by doing or suffering, not allowing an equitable dispute, as both were thought best to be at present rejected.

Now the so called Independent, or rather Congregational party, walking in the mean, what ever the vulgar esteemed them, and how Idiot-like and simply they conceived of them; yet the moderate and inquisitive found in their Doctrine, more of the purity and simplicity of the Doctrine of Christ, then either of the other held forth; namely, Bishop or Presbyter: yea, no such infallibility by them pretended to, as both the other were guilty of, these holding that though there was all the revealed Will of God manifested in the Scriptures, yet that all was not discovered to the world, much less received by it all at once; but that the Wisdom of God unveiled himself, and gave out to every Age their portion.

The Examples they gave were clear as day, in the great manifestations God had given the world in these latter times from *Luther* to his followers, from them to *Calvin*, from him to this present; and therefore they propounded, That the Rule of Gods Word held forth many things that to this Age seemed clear, yet a future might desirous doubts in, & therefore they advised moderation to be used towards men of all opinions concerning matters of Religion of all sorts, and so held forth the proposition of liberty of conscience, but not as agreeing that each man might do what him lust, or live at his own law.

But that as no man knew the Father, but he to whom the Son revealed him, nor the Son but by the Father, that is, the communication of the work of grace was solely from the immediate hand of the Almighty; That man not disobeying the Law Civil, that is, the proper Law of the Magistrate, as man, That the Civil-Sword or Sword of Civil Justice reached not the life of any man, no not his estate, that is, had no just power over a man for what was only meer matter of religion, that is of pure conscience;

That is, to speak to the most mens understanding, that the Magistrate was not (at least so the Keeper of both Tables, as) to enforce an outward obedience to the religion he held forth; the president of error manifest was in the divers sounds of the Trumpets of *Hen. the 8. Edward the 6. Queen Mary, Queen Elizabeth, James and Charles*, all various, some contrary; this summed up drew from contrary affected ones, whether from interest, evil affection, or ignorance, two charges.

One of confusion so called, by affecting toleration for all opinions, yea even to community of wives and estates, afterwards called Levelling.

The other of new Lights, as if they had been meerly sceptical, that is, ready every hour, at every change of interest, or whimsey of the crown, by a prophetick phantay to admit a change of at least religious principles.

I have been in company with them, who after bitter invectives against Independents (yea I may attest some of the black cloath) have upon the opening of the Tentatives, approved their enemies, and disallowed their own parties, professing to have taken up the controversy but on trust; however the opinion of the so called Independent agreed with the temper of the civil Magistrate, as by him thought most suitable; yet not of necessity to the power by them intended, which was regulated Democracy, as the King held Episcopacy best, as most suitable to Monarchy; and the Presbyterian affected the (Lords) (however degenerated) as sorting best with Aristocracie now corrupted: Now these parties, though they held forth principles diverse, yea some seemingly contrary, while the power of the King was on foot, yet they fell not right out; many Independents looking at the outward letter of the Covenant took it; some fearing, denied it; but this bred hot disputes, and though it were intended as aforesaid, as a mere civil touchstone for the Commonwealths settlement, yet from the different Interest of parties it was disobliged; but especially after the sense was explained; and that so far from the pure natural acception of the letter, for instance, that clause to labour uniformity, &c, according to the Word of God, and the example of the best Reformed Churches, which was interpreted of *Scotland* generally by the party.

This being on foot, and the Parliaments party brought low under the Earl of *Essex*, the Defensive General; The Parliament had now found out a man, I may say God sent them one, though of Noble extraction in the worlds phrase, that is, born of rich parents, yea anciently rich, who would take an Offensive Commission; for it is said *Essex* would not; the Commons were eager, but the Lords opposed this, by this time resenting, their Interest also hung upon the same chain with the Kings; but the undertaking was proceeded in too far to be stopped, so that on they go, and now in a miserable low condition, they resolve to new mould the Army, a work so improper and impertinent, both in regard of distafting old Commanders, and getting new mutinies of old Soldiers, not willing to change a General until all scores be cleared, as well as getting new, when on the losing, nay lost side; and that obstructed with stain of Rebellion.

But all these bugs past aside, it is ordered, and accordingly done; but there is a rub cast in the way by the brethren of *Scotlands* friends; for it is ordered none to bear office in the Army that should not take the Covenant; yet this all this while held forth as a religious Oath, a Covenant to God, and from thence urged to the end of civil settlement; and at last it went so high, that no one should bear Office Ecclesiastick so called, Civil, or Military, that would not subject his conscience to this Covenant, which as I have laid few men literally opposed, but obstructed with the late *Scottish* mist of interpretation or explanation but as occasion offered; this also was not so pressed as to retard the work which now pressed hard upon them; so that it was reported divers of the Members thought the Seats at *Westminster* too hot; for *Leicester* taken, and the King with his Army coming on full and strong, the Parliament's weak and thin, all was counted lost: I my self the day the field of *Naseby* was fought, dined with four of the Honors so called, of Knight-Baronets, and two Colonels under the Earl of *Manchester*, who avowed there were but two Soldiers in the Field, the General, and Major General; *Cromwell* was known absent, and the outlandish Gamester *Verney* gone, when tide turned, he had lately laid down, which made them say, had they one thousand pound, they would not be in the Battaille for nine hundred, so lost was the Causse given; yet a Noble Knight, though highly affected to the

the Interest both of *Essex* and *Manchester* resolved, he had rather lose his 1000, & there, then have it, and life, and liberty taken away.

To this despicable Army in such a season and juncture of time, as there never was the like for strength of all sorts on the other side, (as in all Battles before) after a loss of the day in the wisdom and power of mans strength, did the Lord give such a signal Victory, as being wisely followed and improved, the Kings party were never able to make head again; but their severall parties in the severall Counties, were, partly by the *Scot*, keeping them on work by diversions; The *English* Generall, neither Winter nor Summer gave any stop, till *England* had but two Armies, the mercenary so called of *Scots*, and the other of *English*.

And the King, *Oxford* now only left unto him, was enforced to try his then last shift, namely to betake himself to the *Scot*, having a strong Army before *Newark*, thereby to engage a quarrel, as is more then evident to all; by whom he is presently upon the surrender of the place, carried back to *New-Castle*, and they wisely finding the difficulties attending them, in case they should carry him personally into *Scotland*, upon a Treaty deliver him up to the *English*, and what was altogether unexpected, return into their own Land, what engagements to a return I know not: And now the Presbyterian party so called, fly high indeed, and urge execution to the highest of the settlement of their own Interest, & having no other publick enemy, bandy against their brethren in the Lords War; the generality of the *English* was for them; the so called Independents, being esteemed by the many, as the Christians of old, actors of all impurities, and their fry of Confederates the Sectaries, but as so many legions of Devils, sent into the world to give a stop to the erection of the glorious Kingdom of the Lord Christ Jesus; and sure some in their zeal would have thought they had done God good service to have killed them.

I can in my private thoughts compare their condition to none better, then that of the *Israelites*, when they had the Sea before them, and an Army behind them, and were in the wilderness; I know the passion of many a soul, when after all their travails for Liberty, from the yoak so called of the Bishops Tyranny, they found themselves ground to powder under the Millstone of the Presbyterians Rigidity, and all this for conscience sake; for the Presbyter began according to the old Rule with Church work, and that was and ever will be long work; especially where men take it upon them without the Lord, the builder builds in vain.

From this the Commonwealth being still as over-burthened as before, the distastes were great against the present Governors; still as before the galled back seeks ease, let the plaster, cover, or saddle be not only gilt, but gold; This opens a way to the oppressed for the righteous and just ends of the undertaking of this war being held forth, that the ends of the Covenant, as looking at Gods glory, the peoples good, and the just Rights of the King were not ever intended to be denied; but the pretended ends, namely thereby to ensnare the consciences of men by self-ended gloses, or the banishing their persons, and confiscation of their goods, not for neglect of civil obedience, but not conforming to the opinion of others, when as yet it was professed, that grace was the free gift of God, that the rules of prudence or earnest policy had no ground in Gods Word; if prudence only might rule, why not the Popes and Bishops as well as the Presbyterians? and to enforce conscience with the Sword of the *Scot*, was as evil as the Mace of a *German*.

These and the like matters dispersed abroad, and especially in the Army, some Regiments rowze, and head, and notwithstanding all possible endeavors of the Parliament both at *London* and in the Counties, the whole Army is fixed, and both with life and Armes meet at the Rendezvous, and engage to prosecute the just ends of Liberty, or to obtain the just Liberty of the people (and hereabout the name of Levellers first arose) part of the Army actually seize the Kings person at *Holmby*, and now the active Grandees of the ruling party, so called Presbyterian, are accused of high Treason.

The King is under the custody of the Army, and all means endeavored, I believe, to make him instrumental to the ends propounded to themselves; how far their Treaty proceeded, or what obligations were on either side, were and are to me private; I can take them to be but politick Transactions with respects to their mutual respective

respective or particular Interests; and no further carried on, but that either party had their safeguard, their way and place of retreat.

But to proceed, there was much spoken now of the *Scots* return, and many agitations, a great body was enforced to attend the King: And he of a politique head was much catching and drawing; and it is likely that his great knowledge, where he met with true conscience, not equally gifted, he must prevail; for prevention of which and other evils, he I beleeveth by stratagem and over-reach, was brought to carry himself into the Isle of *Wight*, where five hundred could do more then ten thousand otherwhere; but see, this brings greater perplexities; for many now wearied with war, and its effects of all sorts, or so pretending, taking advantage of the Armies opposing of disbanding, cry out, there can be no peace while there is an Army; and though it is truth they were not a meer mercenary Army, but raised by Parliament, under the notion of engagement, as free men, for their own just Rights: Yet it was plain their Interest was now grown wholly into the Army, and that experience shewed there could be no just settlement while the Sword was unsheathed, That they intended nothing but to take away property, and introduce confusion, and were Levellers, haters of all Justice; so that now the Souldier was enforced to stand upon his own guard; *London* was opposite, her Trade was decayed, her Assessments great, and all places filled with complaints; The weaker party in Parliament being sedulous and crying up the Common good, got not only many hearts, but had enwoven many strong dependants into principal places of Trust and Office, both at Sea and Land; so that all that the mighty men could do, was only to plot, but they could not bring to effect: The Army was before much admired for complying with the King; and who so high against them as the Presbyter? O they treated, indeed it was the success (however carried) they maligned; sure I am, they opposed not the thing, for they acted higher in it, then ever did the other; but to prepare for the work about the eleventh of *June, 1647*.

The *London Apprentices* so called, made the foulest breach unto the Liberty of *England* that ever was, forcing away the Speaker, and all partaking with the Interest of the Army; and the residue of the Members to testifie their contrivance of the fact, choose a new Speaker; and declare them at *Windsor*, the head-Quarters of the Army, whither the Speaker and divers Parliament men were fled, or retired, a meer *Juncto* (as the Parliament of *Westminster*, and the Assembly at *Oxford* had before mutually declared against each other) But by the power of the Army they are re-instated again at *Westminster*, and declare *Pelbams* Parliament so called, he being the new chosen Speaker, no Parliament; but the lenity of the prevailing part went no further then imprisonment of some heads, either not daring in such a difficult season, or prudently forbearing to exasperate; but this lenity shattered much their work; for although in the re-instating these Members, the Army passing through the heart of *London*, shewed themselves brethren, not enemies; no force, no disdain appearing; yet *London* was full of hot humours; and no sooner was the body of the Army to that end politickly dispersed, by the Members kept in, by every Voting, but they break forth anew.

Yea, so was the plot laid, that each County in *England* should have their embroilments, and the *Scot* should return to beat down the Levelling Army, and re-inthronise the Presbyter; but declared to make way for a free Treaty with the King at the Isle of *Wight*; a sure plot; for the Army every where distractred, what could they do? But the plot works, let us see the event; *Wales* begins, the remote part *West*; thither is *Cromwel* sent; He gone, all on the sudden the world is full, but happily by degrees, not as intended, but occasionally; each party of Rogues, who began the work, thinking themselves able to re-instate King *Charls*; the next place was *Norwick*, where the Lord shewed himself wonderfully, both in the height of power, and depth of prudence, of which only one word.

There was about two thousand persons in six hours time gathered together, not intended untill *May* day, the choyce day of the Major by promiscuous popular Election (I need say no more to shew the evil in case of a future settlement) but the Major being upon miscarriage sent for by a Messenger of Parliament to kill the Messenger, and rescue the Major, this multitude pretended to rise; but up, they broke open

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one of the Sheriffs houses, and risted the same, and the Excise Office, and then seized the Magazine of the County, in which was ninety eight barrels of powder; there were in the house, dwellers to the number of twenty and odd of men, women, and children; the house was large and strong, yet they forced it open, there being Arms also for two thousand persons; which found out, they presently arm and charge; but the scowlers and worms being in, and they in haste, their Guns became useleis against the Horse, who came in to the assistance of the Roundheads, as they were called, of whom it was resolved, not one should be left alive by the next day after. And now both Presbyter and Independent being in the same danger, they both met as friends, and accounted the ones safety the others preservation; and as God preserved the Souldier without, so did he also them within the house; for the house being blown up, as is most likely by wilfulness of some of them (for it was declared the day before, it would be blown up) and above one hundred of them found dead, not one of the Inhabitants were slain, though under the same ruines; yea, a woman great with childe, formerly subject to miscarry, now near her time, though lying long under a great wall, was taken out safe, miscarried not, but liveth still to praise the Lord, with those her brethren and sisters, who saw themselves in the grave, and were yet raised; and this was done, April the twenty fourth, One thousand six hundred forty eight.

From hence were the Souldiers, while the City was yet scarce settled, called to *Bury* in *Suffolk*, thence into *Kent*, thence to *Colchester*; a small party brought *Holland's* and *Buckingham's* partakers to their shame; and the *Scot*, before not known whether Royal or Presbyterial, being (with much ado) disowned by the Parliament, by reason, as was declared, of the insufferable cruelties and rapines by them exercised upon the *English*; but the visible interest of them was wholly Royal, commixing Councils and Interest with the renegade *English*, so called; and although all the breakings forth were meerly by the loose multitude, and no appearance but for the Royal party; yet this hinc was taken, strongly to urge a close with his Majesty; and to make this the less doubtfull, the Navy in great part revolt, and the strong supporters of the Presbyterian party engage in it.

Now whether the Independents were not true to the King in their Colloque, I here quere not, nor can more then before; This I am sure, they were true to themselves.

But the Presbyterian party so called, were not true to themselves; for the King out-went them as far as the other did him; not that I beleive that they intended it, but that their Leaders now seeing things at a dead lift, resolved to make the best bargain they could for themselves, not seeking the Kings Interest neither, but as it stood with their own; therefore they resolve to please the King in all; and that the Treaty might be free, send him down new Suits &c. and free him from the close imprisonment or restraint wherein he had suffered; and this proceeded to a large Treaty, wherein the King and his Creatures treated all matters as them listed; and that which was never heard on in the world, a Prince alone to maintain Arguments both divine and civil against the utmost wits of Lawyers and Divines, and as they were printed, seemed to surmount them; yet to get himself into the Throne, and make his enemies bowe, he parted with what he had argued himself into; so they had what they had, not of right, but grant still; and all this done with such sobriety, such opposition, granting now a little, then a little, that a meer honest eye-witnes would have been deceived, notwithstanding he knew his Majesty had declared himself a prisoner, not free, his Son the Prince now acting by his command, avowing the Treaty forced, and the Armies of the *Scots* and *English* engaged to break all off.

But God, notwithstanding all this, that breaks all the bows that were strained against him, scatters all these clouds; only *Colchester*, the *Scots* Army, and the Fleet are continued to exercise our patience; during the siege of *Colchester*, it is wonderfull that the poor Souldier should endure to fight the same men so many times, still sending them to *London*, whence they escaped, and yet he not execute them, but send them again; so that I have heard some were taken above seven times prisoners; the Elements seemed to fight against them, or bewaile the obdurateness of some hearts, by a continual rain during all that summer, especially at that siege, which though long, yet at last was effected; And God so blessed the Lieut, General in the North, that thought

though he had been made specially instrumentall in most the great warlike affairs (as well as conciliary) yet here he triumphed indeed; the General taken prisoner, and the whole Army utterly dispirited, though above three to one, and disputed manlike; but who can oppose the will of the Almighty.

Yet some endeavoured therewithal, and these successes against him whom God would cast down, engaged them the more speedily to effect their intentions, and enact a disbanding of the Army; lest the Army should disband them; This hastens the Armies march to *London*, I am confident altogether unresolved what to do; the work which God now called them to, was higher then ever, and the presages were the ruine either of *London*, the Army, or both; certainly there were many who would have put it to the Tryal; but the Citizens wisely considering, that the multitude of discontented persons, poor and necessitous, were as great, if not greater dangers within, then the Army without, and that lose they what they could by compliance, they must lose more by opposition, they admit the General.

The Parliament is now shattered, many of the Members being taken and imprisoned, are declared as guilty of the bringing in the *Scots*, and might as well, if not better, of the several mutinies in *England* on the Land, and defection of the Ships at Sea; *London* is now Garrisoned, the Arrears which were great there (intending by want of pay, if possible, to dishearten the Soldier) are strictly ordered, (and the Seal of the beast there, that is *Pauls* Church the Cathedral made a Court of Guard) and such Members as would avow the proceedings with the King, excluded the House.

Ireland all this while was to the Parliament almost, as it hath been with me, a thing not regarded; but now there are thoughts of that, and the Army settled under a certain number, with a settlement of pay respectively, and order taken for the settling the Navy, and Generals sent forth; there is great thoughts of the necessity of doing Justice; mens minds had run no higher generally, then happily to bring a Lord or two to the block; but lo, God raiseth mens spirits to that height, and brings them to it by degrees, that they bring even the King himself to the Barr of Justice; O that every heart may tremble at the work of the Lord! he hath here manifested his power, let all Princes tremble; *Charls of England* the best of Kings, I may admit, but the worst of all other men (for none hath such obligations) is the example.

No Nation had the like mercies with *England*, the hand of heaven had planted and watered us, we were grown rich, our eyes fatid with fat, and our bodies sweat under the pride of apparel; but our Religion was formal, and all our improvement of outward mercies were to licentiousness; the poor were naked, idle, and unprovided for; the Law held forth righteousness, but the Judges and Ministers made it crooked, or broken; the rich men only were employed, the honour of Magistracy was rich clothes and a full Table, but they were too good to take pains.

Now O all you Magistrates, see, God hath plucked him out, who was prayed for as the light of your life, and the breath of your nostrils, the fountain of your so called Honours, your Idols; and hath broken off, not only the palms of his hands and his feet, but by the Sword of the Lord hath cut off his head, as an offender against the Laws, which he was entrusted to be the chief Keeper of. I write it, when I still see with grief, men great in riches, able in parts, think scorn to be left out of Offices and places of trust, as neglected; but put them in, and if they have nothing else to do, they think that a work below them: I avow it just, if God should turn them out of all, and let the Plough-man to be their Lord; but I see yet no Justice for man to do it; yet that they should be punished, is most just; but of this more seasonably afterwards; men that will may see God in this, and admire.

I know many pious Christians, enemies to this Act, who yet adhered to the Parliament in all the Wars, and contributions thereto, against the King, yea in the offensive one; but their stick is the Covenant; I would have such rest content in their own innocency in the fact they might have opposed; if then they resisted not, let them now be silent, seeing the Lord is high in judgement.

That party of Parliament who transacted the affairs of State, now still keeping the name of the Parliament (though assisted with, or guarded by the Army) and in that saving to us our due Rights and Liberties, of equal Law and property, After this fatal Sentence proceeds to the sentencing of others, both of high and low estate, and enact

enact the alteration of the State of the Nation from a Monarchy, the Government being grown wholly confused; the due regulation of the Prince, the privileges of Parliament, and the liberty of the Subject, being rather not to be distinguished then distinguished; rather treated on in the Schools then by themselves; and our Laws (though the ignorance of them excused no man) by the Judges or Senate, then by the many concerned, whether Executioners as Justices of the Peace, inferior Judges, Constables, &c. or the poor multitude; yea, all our Cities and Boroughs lost in their Franchises, and Towns lawless in all kinds, so that there was a kinde of legall levelling or the every grown common: Was it not high time for the Parliament of *England* to step up? God raised up some spirits, and but a few, they attempted high matters, feared not the frown of a King, nor the combinations of all neighbour Princes, which was threatened, but resolved to establish the work God set them about: And I let them to know God hath plained the way unto them, there is no opposition but Self; they have been Gods instruments for great works, and must be yet for greater; success doth not always demonstrate the truth, God may suffer them in many errors for one good sake; What he intends I determine not, but may conjecture, that themselves saw God Almighty intended an alteration of that frame of Government which was in this Nation, What to settle is their work, and how; to oppose this settlement was now the endeavour; some things I fear in the many Counterbuffs which God had given, were taken to oppose, which were never so intended, though they might be tendered inopportunely, and under the time of the grand design of Petitioning:

As namely some Petitions, which though not burned by the hands of the Hangman, as that was presented to the ungarbled House, yet it was for some things, (it may be justly distasted) in the whole disowned, and called, or rather miscalled as seditious by some interessed persons, to render the whole odious. *Rainsborough* is slain, and no due enquiry into his death, or *Sir H. Cholmleys* supposed compliance with the *Pomfretters*: This is in an unsettled State (where though faith was highly known and pretended to on both sides, little was acted by the parties controvorting, but as men) adopted enemies to new attempts, and that from grounds given forth plausible enough; for the Engagements at *New-Market*, and *Triple-Heath*, &c. were made the outside of the design: The matter proposed might be just, but the way of undertaking disowned, and they soon quelled by the valour and policy of the Lieut. General, who had also with as much confidence, as cunning, strangled it formerly at *Ware*.

How warrantable all proceedings were, I cannot at large here discuss; but this is evident, as soildiers they could not so dispute the matter, but their way was unjust; what ever their cause was as Subjects, they could but Petition, untill a lawful power or just necessity headed them: This awhile obstructed the relief of *Ireland*, together with some scattered scrupling objections; as that the Land was theirs Originally, ours by Conquest onely, &c. Which Arguments admitted, would reduce us all to the mountain of *Ararat*, and make all Nations fight there (if they could finde them) till they had the possession which onely they could prove was the first indubitable rightful possession of their first Ancestor after the flood; not that I think it lawful for one Nation to dispossess another at lust; but possession anciently acquired is just, till lawfully evicted; and if the contest be drawn to the Swords decision, it is at least lawful on the Conquerors part.

But really what ever appeared in it, all these were but the stratagems of the defeated party of the King, to foment if possible new quarrels among the Parliament party, to give some new hopes to their dying, yea, dead-hearted cause, who meeting with discontented, hot, and eager spirits, were easily seduced; yea, so as to declare for the necessity of introducing the Son, when themselves agreed to dethrone, nay, execute the Father; and so far may men be seduced by false interests: but some did higher engage, declaring the Parliament no Parliament; and charging of some men eminently instrumental (to their own design) as absolute Traytors; yea, higher then the King deceased. How things came to this height, is not worthy the controvorting here; but this I must say, the Author was a man of a high spirit, and good natural parts, a great sufferer for the common Cause, and promoter of it; but in stead of reward expected, slighted in what was acknowledged to him as duly merited; and upon mistakes, as he avowed, imprisoned by his owa party; thus highly exasperated, he engages a strong

party with him, who urging highly the failings of others, by opening errors, lay the seeds of new divisions, as is objected against them ; and he is upon this miscalled, or called the Prince or Ring-leader of the so called Levellers, wherein I shall to clear all interests on foote, speak a few words concerning Levelling ; and that both properly and improperly, that is, both as it holds forth a just Rule, and is scandalized, and an unjust end, and therefore to be rejected ; and the contest is but the fame of Satans old way of malignity.

There are just things held out under the name of Levelling, which he would hide, and his instruments; therefore I beseech all holding forth a profession of Christianity, to walk worthy of their high Calling to which they are called in the Lord Jesus ; not to expound, take, or receive things, matters or persons into obloquie or honor for mens sake, or because of Interest sake, but according to the rule of our holy profession.

Levelling then may be considered, first, improperly, and so unjustly, that is, for a forcible taking away the property of rich men, or men that have any property be it more or less : Now this is divers, as first, under colour of a Title, I take away the estate, whether reall or personal, of my neighbour, and will by no means come to, either restore, or arbitrate the busines ; but knowing the Law (as now used) will afford a debate lasting, and a trick may overthrow (as aforesaid) my neighbours just right ; and if he be but poor or patient, he will be quickly disheartened, and I shall gain my end, and injoy as justly, even by colour of Law, what was with detestable injury forced from another (this was the great beam in some mens eyes) and called legal Levelling, the most unjust of all, if truth it be so, which is much feared, being in all mens mouthes.

The next unjust Levelling was a Tenet, that the poor had an interest in the Commonwealth as well as the rich ; and that every man ought to have his portion ; and that the great rich men having hoarded up the Treasure, and joyning house to house, and field to field, they had so much care for the private, that the publike was neglected ; yea, that the immoderate heaping of estate was unlawful, and that there ought to be a proportion above which no man might rise ; and to remedy these evils, they would have all estates cast into a common stock, and the land (at least) divided equally ; and surely they had a great president in a famous Commonwealth, which twice (in a short space for such a Revolution) or I am deceived, did such an Act ; but the Commonwealth was Heathen, and I know no Rule for us to walk by their example, unless the Word of God allow it.

The next unjust Levelling, is, by forcing not an equality of division, but a perpetual community, as supposing all evils to grow principally from the insatiable thirst after riches; therefore these propound, Not now to apportion estates, and after to settle property, and admit buying & selling, and transmutations of possession, and so an alteration of the first settlement by degrees; but to vest the whole interest in the body of the people, and to settle allowances ; first, for exceeding vertue, as Magistrates, and all for eminent excellencies employed in publike trust, according to their set and unalterably appointed degrees ; and next for the multitude, according to a like set and unalterable proportion, except by the publike Magistrate appointed, respect being duly had unto the number, and condition, of Age or Youth, and other qualifications, according to the plot laid down in that exquisite piece of Sir Tho. Moore, intending, as I conceive the perfect Idea of a Commonwealth, according to the rule of Nature, perfected by Evangelical Doctrine ; and sure it is, were such a State from a voluntary and unfeigned desire of well and righteous living, voluntarily established, it were an earthly Paradise ; and that it is not impossible, the pattern of the *Lacedemonian* State overcomming the most difficult parts of it, plainly declares ; But its thought fit, not the powers onely, but the body are to be convinced of such things moderately and wisely, not by indiscreet agitations, much les perturbations of a State, they are to be left to their judgements, God will effect assuredly such things as he hath determined in his appointed season.

Another Levelling here called unjust, that is, from error continued, or by force attempted, as was objected, (some so pretending, being instrumental in renewing warrs, and to cause out breakings) is in them, who were thought happily to settle or attempt the settlement of their own private frame of Commonwealth, by such means ; but truly, though some assist, and others more wise declare themselves not willing to oppose,

oppose, yet I hope, yea, and am verily perswaded of some of them, they did both respectively, out of a tendernels to men whom they had known valiantly to oppose the common pretended Enemy, out of conscience of the interest they now seemingly opposed, or at least cleaved not unto, though they avowed they adhered to the interest always pretended, but the men were changed, and acted not as they had declared.

Others were opinionated, that community was the Regiment of the Lord Jesus; and that all Christians ought to submit to it; and they may say true, but that time may not be yet; and when it is, surely it will not be a confused community; the community among the Apostles (stretched only to voluntary sales, and that) was, somewhat for the present necessity, but especially and for ever to manifest they were all as one Family, under their Head the Lord Jesus; and that no man called a Christian, could call ought his own, while his faithful brother stood in need, which was, though not inforced, ever held by all Christians, how ever weakly practised, and in the declining State of the Church, grew more obnoxious, to evident neglect.

Now such a community, that the poor Christian being laborious (if able to work) should be relieved where his labour failed, or in what it reached not unto (that so he might live comfortably, and rejoice in the Covenant of his God) assuredly ought, and I hope will be reduced to its original purity.

Now there was another unjust Levelling talked of, which was an unregulated community, that is, the setting up the Law of Naturals without the Divine regulations; that is, to live like beasts, to kill and eat, to live each man to his lusts, and the stronger to overcome the weaker; which confusion having ushered in a necessity of regulation, then and thereby to lay the foundations from that necessity, of a holy or just Community among the people; supposing men, while enjoying ought assuredly, would not be drawn to an uninterested Politie, wherein, though the end be approved, yet no just man will allow the means, if he remember we must not do evil that good may come of it, no not in this juncture of time when the flood-gates of Liberty were broken up, though that some may think, to that end Providence so ordered the matter; and to men so settled, there is no chain strong enough.

O Lord, I pray thee open such eyes, especially of those that from a sincere heart desire thy glory, least their zeal, not according to knowledge, make thy truth and zeal for thee evil spoken of; and most like it is, of such spirits were they, who were seduced; if seduced, or that they drew away themselves and others with them.

But let them know, that in such unruly breakings out of parties into contentions of divided interests, it is more lawful for their opposites, being in present power, to subdue and punish them, then for them to labour and indeavour by force or disobedience to subdue or cashier their opposites: And now I am come to the more particular discussion of just Levelling (or just things held out by men, no way aiming at any by, or corrupt end, or interest whatever.)

Just Levelling then so called is an impropriety in regard of the acceptance of the word, a propriety in regard of the end; for it looks at just things justly, however it is scandalized; and is in a word, but the rule of proportionate Justice: I say, not onely Justice, but proportionate, that is, that there be not onely one Law, but that Law held forth with due respects of equity and righteousness; as for example, To charge a Gentleman that hath threé hundred pound a year, a horse for Service, and to charge him for 300. *l.* a year, to a Rate is just, for such an estate there is; and to charge a Gentleman of three thousand pound a year, a horse also, is just; and to charge him for three thousand pound *per annum* is just; but this is not levelled, that is, brought to the proportion of equal distributive Justice; for if you will do so, then the proportion must, and ought to be thus fixed; (first, admitting that qualifications of the mind, though honored, be not charged; for that of the Poll-money was in that exceedingly unjust; divers Knights, Esquires, Doctors, Attorneys, &c. not being worth the money they were assed at by the Poll) but I say that excepted, they must fix a Rule for the value of a Gentleman, Esquire, Knight, &c.

To which end, Suppose the estate of a Gentleman be 300. *l.* *per annum*, as before, and that this shal be charged one horse: then a Gentleman of 600. *l.* must be three; for if that three hundred maintain a Gentleman and one horse, six hundred may maintain two horses more; and so in proportion in all charges, and duties in the Commonwealth.

These Levellers prefer the integrity of a Religious conversation in all things answerable to the strictness of their holy profession, above all policy and carnal interests; therefore they honour rich men, but they especially esteem and trust vertuous men; and therefore desire, that in publike Administrations the basis and settlement of the Commonwealth may be so tempered, that the vertuous, and experienced judicious man may not be cashiered a fit Regiment for want of Riches, being well knowing that the purity and corruption of interest are the props and decays of a Commonwealth respectively as they are admitted.

They deny not that the foundations of *Englands* settlement were just, nor that there was alwayes a politick settlement held forth; but they say it was never practized as held forth, and yet held forth far short of what the perfection of our profession enlightens unto; whereupon they urge, that the whole frame of our Government, Civil as well as Ecclesiastick, ought to be brought to the Standard of Justice, at least to that the Declarations of Parliament seem to hold forth, which own as much in Generals, as they desire in particulars; wherefore they say, that they are confident it can now be nothing but corrupt and partial Interests that can divide; and therefore they desired, that the foundations being assured, the superstructure might be answerable; and that in not only the clearing of the Rights of the supreme Magistrate, but of the Subjects in all Offices, Trusts, and Degrees, in such a plain, evident Christian manner, that no man might complain justly, either that through ignorance he knew not the Law, or difficulty that he could not perform it, or delays that he were oppressed instead of relieved by it; and to that end desired the Laws in *English*, all fained actions and intricacy of pleadings to be annulled, Courts of Law and equity with all other legall proceedings to be in the respective Counties; Bargains and Sales, and all conveyances to be enrolled, all Lands to pay debts, Creditors to be paid equally out of the whole estate of the Debtor, not preferring fraudulent Judgements before honest Bills; all actions under such a value to be determined by any two Justices of the Limit by their Warrants without Writ, especially at monthly meetings, but more especially if they were both poor, that is, not worth one hundred pound clear, or if but one of them, the poor being grown lately as well enemies and devourers of one another as the rich.

That there might be but one waight, whether *Troy* or *Aver du poiz*, in the Nation, and so one measure; and one tenure, that is Freehold of the State, not grantable to any person or persons, so called mean Lords, as tending to the high advancing of particular interests, much more subject to destroy then support the Commonwealth; especially that basest badge of slavery, and the most prejudicial to the interest of a free Commonwealth, the so called *Villeni* or bond service, urging that the Rule of *Littleton*, That Land being the less worthy cannot engage the person of a free man which is more worthy, and so that Villenage, or now so called Copy-hold, is incompatible with freedome; and the evil effects of this have appeared in choyce of Representatives, as dangerous as ever did any Feife service of the Barons to their Sovereigns the Kings; and they say it is just the Commonwealth should have right done against inferior Lords, now the Lords have right against the King or State, that so while we be freed from the Tyranny of a Prince, we may not be worse slaves each to other; for they can instance more wicked, unchristian, merciless, and cruel acts in Copyhold Lords, then in all the Princes in the world.

They also desired, if the State took Tonnage, and Poundage, Customes, &c. that the Seas might be guarded (and some said, if they did not, it was lawful to steal Custome, but I put that opinion in a Parenthesis) they desired that no person or condition of men might be secured from Law; that all evils as appearing, might be at appearing, rectified; and to that end, that an easie address might be to Courts of Justice, settled in power in the respective bounds, both for ending and determining according to Law settled, and preparing for remedy to emergent evils by certificate of the matter.

They said they valued their priviledges as high as any, but they would part with their priviledges of men, to enjoy the priviledge of just and wise men; they therefore would deny themselves things lawful, if found inconvenient; thus did they submit to the Magistrate, and thought not themselves wiser then them whom God set over them; but this also admitted, that Magistrates were men and might err; that the rule

rule of their Government being but perfect reason, (supposed that infallibility was not tyed to the Seat of Justice, if not to the Throne of the Prince, and Chair of the Bishop) that it was the duty of the Subject, with fear and humility to advise of the Law; and that no man might oppose the Law but lawfully; not to be the Authors of disturbance to the State, lest each man might contend for his own opinion, until there were as many Laws as men: They said that the poor were a parcel of the body politick, which ought to be provided for settledly and sufficiently (some propounded Commons, some concealed Lands, some one thing, some another; but these were mistaken parties, generally, though well affected they might be; for Commons were the Tenants Rights originally, not the poors; and concealed Lands might now have proved as fatall a Hawk to the State to whom they now belong, as Forreft Lands did before to the King; for, as I have said before, all Tenures, Titles, &c. being grown so difficult, what might not have been adjudged now concealed, as then was Forest?)

These men further allowed and desired, that persons should be brought into due degrees, the due power of all persons respectively settled, the primitive order for security of the Nation by the enforcing the Laws of Tythings for idle vagrant persons, Hues and Cryes for Thefts, Robberies, and such like, that due orders of Cities, and Walled Towns, Bridges, and great Roads for Watches, &c.

Regulations of all Trades by certain and just Laws might be renewed, Prisons not made the Schools of all Villany, but places of due laborious restraint and safe keeping, and that specially first for persons criminious, next dangerous, lusty, riotous, lazy, and idle.

Publike Offices to be born at the publike charge, and no just Office to be the burthen or ruine of a man, such as to be a Reader of Inns of Court, High-Sheriff, Constable, Major, Sheriff, &c. of Counties and Cities.

That all Customes be certain, all Fees of Officers, with a thousand things more which experience had rendred manifestly holding forth Justice, or the foundations thereof.

Now these just things being so diametrically opposite to the Interest of multitudes who had for their corrupt interest sake, or to make a fortune in their own Idolish phrase, joyned themselves to the Parliament party, were heard, but neglected, then scandalized to commix Interests with the errors afore-supposed in Levelling in the grossest acceptation; so that each rule almost of morall honesty, was now miscalled Levelling.

The reason why I call these just things Levelling, is to unmask these Satans, and to manifest to all men the strange artifices used to obstruct the truth, and take men off from the entertaining true apprehensions of it, suggesting to them these jealousies; that though the Propositions held forth nothing but seemingly just, honest, and Christian, yet no doubt there was a Snake lay in the grass, to eat in pieces the root of Government, and debase the Supremacy of Magistracy, destroy order, annihilate property, and introduce the confusion (which some, as I have said, are said to intend) and we may justly fear, if some timely and just order preventive be not applied, will by these self-seekers be assuredly perfected.

But all these just Levellers had not the same foundation or principle for their designs; though know assuredly, all honest men reall and of publike spirits, Papist or Kings Protestant (that is, he that would walk no further in the way of Christ then the Laws of the Land taught him; that is, believing as was by Law established, according to the Canon, &c. yet zealously making conscience of being wiser then his Teachers) Presbyter or Independent, or of any Sect, Opinion, or Religion soever, were nick-named Levellers, by them that found it best fishing in troubled puddled waters.

But as I say, they had several principles; The Presbyter founding his Levelling upon the Judicials of *Moses*, stuck to that Rule, that the Judicials were Gods own Law given to his own people; with whom he had entered a Covenant, not only upon Mount *Sinai*, but in the loyns of *Abraham*, father of the faithful, that so *Abraham* is our father, and we by faith his seed, and so bound.

Again, that the people chosen of God, were Types of all Gods people, to whom that Law was given in them, and living according to that Law, should thereby man-
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fest themselves each to other to be the people of God, that Christ had not destroyed this Law, he came to fulfill it : And lastly, they enforced this from the rule of reason; If man had no boundary to his Reason, no rule to make his Law by, reason would be infinite, which error had been the foundation of so many dreadful alterations as States had suffered under, in such clymaterick revolutions as now this Nation laboured under ; and therefore they desired the drawing of *Englands* Laws to their primitive rule, namely the *Judicials*. This was objected against by others, who yet desired a rule of righteousness, alledging, that if this were the Rule, then it must be all so, or but part; not all, for the Ceremonial Law being the shadow, fled away at the coming of Christ in the body; and that the Church of *Rome* had done evil, yea, that it was the foundation and root of their so dangerous Apostacy, to carry the shadow along with the body ; for, from thence had come their high power of the Pope, their sacring of Churches, as well as persons, their Altars, Trinkets, &c. their Jubiles, Pardons, Indulgences, &c. Canonical hours, holy Veltments, and all the rest of their trash ; and that one admitted, all would follow ; and as the entertaining the amusive or formal part of worship into religious services, had under the supremacy of the Ecclesiastick power defiled Church and Commonwealth, taking away all sence of inward, serious, conscientiable, moral duty, as well as religious, and resting only in the exterior form, either the pomp of the action, or the act it self : So now, in the reformation of the Ecclesiastick power, by the Magisterial Civil power, the Commonwealth would at last lay the foundation of a new defilement to the Church ; and that this might be, was too too evident by the precedent example. So that we should but change the Tables, and keep the false Dice still, which would never better our game ; and therefore they said, that unless there could be shewed exactly which part of the *Judicials*, by an infallible word, and that as given by *Moses*, (that is, not as confirmed by Christ or his Apostles) was the rule of Christian duty, they would take none at all (as so given) for if man were Judge of a part of that Law, how agreeable to the Nation, whereof he or they were rulers, then of all ; and if so, then as good take pure reason, not contrary to the Law of Christ and his Apostles, but founded rather upon his Doctrine, in the general rule, though the particular application might vary in respect of circumstances, so not rejecting the *Judicials*, but not taking them as obligatory, as given to the Jew, the people of God, or typing out all Christian Nations, or an Ensign of the faith, but as a wise Law, yea the wifest, as being the dictates of the prime wisdom, the same God that the Christians worshipped, they not only admitted, but desired such as were consonant to Christian reason to be established amongst us.

There were some particular contentions, as first for Tythes, secondly Appeals, next the Sabbath, then Theft not to be death, then Adultery and Blasphemy to be death ; and these were things of principal Interest indeed : But the Interest (in part, which discredited the whole) was so visible, as I cannot allow it, though I may them who sought the thing as afflicted in spirit, seeing the want of conscience in multitudes, thinking ill of all called Ministers, for some evil mens sakes, open prophanation of the Sabbath by those professed a Sabbath (and by the last Act restrained in part, and left in other part as loose as before) petty Theft, death ; yet in the same State common and manifest Adultery go without any punishment or question (& all for want of a rule, for we hear of long debates about it) and Swearing and Blasphemy almost as ordinary as speaking ; yet proof made difficult, and punishment easie, but no conscience of reforming; for few thought it a sin; for the great men and the wise men were most guilty and gloried in it ; so that it was evident, that as some sought the re-establishment of the old frame of Government, and that both in Church so called and State, according to the old pattern of the Erroneous Church, or Apostacy of *Rome*, founding upon the equity and useful allusion (so called) of the *Mosical Judicials* and *Ceremonials*; some nothing but confusion : so others desired one wholly new, avoiding all the errors which corrupt interests had introduced; and that not only because the way of Error was before tracked, and therefore easie to be trodden anew, but as being builded upon a false foundation, as well as by time and error corrupted and perverted.

Some of these, though holding the truth, were by a part of themselves supposed to be in an error, while presuming upon the wonderful mercies the Lord had bestowed upon them, they were over-rash in their desires of a change ; for the evident symptoms of unavoidable

unavoidable ruine, say they, threaten us, the multitude of interests are so divers, and contrary ; how few are there to manage such a work ? not one to ten, if one to an hundred : this were to tempt God, To expect miracles in a day when miracles cease ; God bade the few not destroy all their enemies at once, lest the beasts should prevail against them ; it may hold forth the simplicity of the Dove, but not the subtlety of the Serpent, which is requisite in this case ; for you see, say they, what a contest hath been with the single interest of the Clergy, and the scattered fry of their corrupt Courts ; but if you engage against all the remainders of them, with the numerous off-spring of all Courts, as of Judges, Serjeants, Counsellors, Sollicitors, Attorneys, Prothonotaries, Secondaries, Clerks of the Crown, Clerks of Assize, Clerks of the Exigents, Clerks of the Papers, Clerks of the Warrants, Clerks of the Essoye, Clerks of the Juries, Clerks of the Pipe, Clerke of the Kings silver, Clerks of the Seal, Clerk of the Peace, *Custos brevium*, Chyrographers, Fillizer, Marshals, Cryers, Waiters, Chancellors, Remembrancers, Six Clerks, Registers, Comptrollers of the Seal, Examiners, Clerk of the Hamper, Clerk of the petty Bag, Cursiters, Serjeants of the Mace, Ushers of the Court, Clerks in nature of ordinary Attorneys, with many more, and all these having their adherents, for which of these but come in under some corrupt interest or other ?

But generally, the chief in Offices, at least of profit, as Judges, Serjeants, Counsellors, Advocates, Doctors, Proctors, Attorneys, Six Clerks, Clerks of Assize, &c. are all the younger Brethren, or sons of Lords, or of their Families, however of the greatest Gent. and of the Parliament men themselves, and setled by the Bastard so called the Conquerour upon a politick Maxime,

That the Land in *England* being appointed for the safeguard of the Kingdom, might not be brackled away ; therefore as all the Land went to the eldest, these were the wayes of educating and maintaining the younger, make them Lawyers, and make the Laws dubious, Offices plentiful, and there would be (as experience hath proved it sufficiently) a plentiful portion ; then settle Tythes, encrease Gleabs, build Monasteries, &c. and there is another portion, Colledges and Halls I will reckon to them, then Physicians and Merchants ; so that if you seek due Reformation, you will make each one your enemie, and the whole world will be against you ; and nothing but confusion can be ushered in by the pretended Reformation ; you will have Parliament, City, Countrey, Lords, Gentry, Comminalty, and all against you ; nay, if you will purge throughly, you must alter the whole course of all commerce.

For there is no Traffique according to a rule of Righteousnes.

Let Errors as they came by degrees, so by degrees be reduced, pull out a crazie stone, but put in a good one ; the contrary party objected, that this was to dawb with untempered Morter, not to serve God but themselves, that it was to pretend to do good, and do evil ; that this was the Error of the King and the two first Parliaments ; that they had upheld following providence, to mount into the Carr of Government ; that they had dared enough then against all interests, Kingly, Parliamentary, Countrey and City ; by their executing *Charls*, and imprisoning the members, Garrisoning the City, & Quartering in the Countys : Thus were matters bandied, and some parties grew so fierce (as anger is alwayes a short madness) that they did they knew not what, which yet testified that their anger was selfish ; others more wisely wrote, but unwisely in that they remembred not they stirred a Lyon ; they depended so much upon their first engagement to the Parliament, that they thought they might have said any thing.

Let truth bear sway, she alwayes carrieth a Majestie and will prevail ; but many tell truth, some with upbraidings and revilings, some with cursings, and others (almost all) with bitterness ; truth is ashamed by these frailties, and suffers for a weak servants sake.

But these men concealed their names ; and though some wise men did so, yet their writings were such as could not justly be traduced for scandal or sedition ; and these men neither owned their names when their books were most acceptable ; nor in times most dark and dangerous ; but some of these others owned them sometimes, otherwhile they denied them, whereby they were suspected of no great integrity, others did openly own their works in times of great danger under the King, and also under the Parliament, yea even when they opposed them in their highest priviledges, some debating one thing, some another, yea some against the publike transactions of the

State,

State, and some for a general liberty of all opinions, and printing and publishing (which to be settled with safety to the State, and no prejudice to the light of truth, is a matter difficult, but of importance, not to be neglected) they also urged to the men in power the hand of God upon the Nation, how introduced, that the same or worse evils were now upon us, our Courts of all sorts having changed rather their Judges then their justice, that Committees were worse rather then ordinary Courts, as being made of those persons who were the suprem Judges; and they erring, all the inferior wheels might well move out of order.

And proceedings in Parliament were the same, so difficult, dilatory, and so expensive, that men were even tired in body as in spirit; they did acknowledge the greatness and difficulty of the work, they considered interests, and yet they thought there was not that expedition or integrity requisite to so high trusts in such a season of judgement.

And this was evidenced by the expedition in matters of interest private (so called) that is to the assurance of the acquired Supremacy, and raising the due assessments, but not in the general settlement as was propounded; this draws some men to that piece so called the Agreement of the people; a thing, which were the people capable of such a work, might, if rightly stated, be of great avail; but indeed to put into the hands of so vast a multitude, of such divers interests, and that without an assured and competent number to carry on the work, which in probability they neither had, nor could have had, without employing the Sword-men (which in it self had totally ruined the nature of an Agreement) had unravelled all the work, and set us as far back as at the beginning; but that the propounders of it were turned recreant to their principles (some particular man might) or had joyned interest with the Royall party, I cannot beleeve it.

But I suppose really they were by that party and some others of eager spirits it may be, really longing and breathing after Righteousness, and settling the Kingdom of Jesus Christ (I fear yet in their own strength) encouraged to go on in their design, (which some of them politickly saw tended to divide, and that was to let them reign) but surely these Royal instigators were men of lost condition: for what could the issue have been, but renewing a more deadly and confused warr? for the multitude being by this A&C publickly appealed to, and that by the sole existent power Civill, they must have assumed the absolute supremacy into the meer vulgar Ocean; and sooner can you set bounds to the Ocean then their appetites: This foreseen, this piece was after long debate, with much wisdom, for the present, cast into the number of Petitions, Remonstrances, &c. of Parliament, to be by their mature advisements qualified, fit for propagating common interest in due time; but this obstruction imbibited the more, and made some spirits, under concealed, or not owned names, to set abroad the failings, errors, and miscarriages of all the Members in Parliament, or else scandalize them; and pinching still the ablest and activest, they hoped to foyl so, that some soyle should remain, though most would not gain credit.

Far be it from me, pretending integrity, to assert what I know not, but I must hope the Charges against some men, if not the most, are merely suggestions of envy to eminent vertue; for I see great things done by them, and their words are sweet as honey: Truth is, I am not so blind neither, but I can see and hear that favour and friendship is the Mistress with the State, as it was at Court; and oppression and covetize is not banished Englands Commonweale; but I must say, that retorted, is as true, namely, that it is incident to men neglected to complain, and so to men oppressed; I would allow an equall and speedy tryall according to my rule, even to my deadliest (manly) enemy; the want of this hath much exasperated many, and gained none cordially.

Now in all this narration, you say, what coherence is there twixt Christ and his Doctrine; his professors, and their conversation? had we not better have fated still? How many thousands, nay ten thousands hath this Warr cost, as in the Kingdomes account is evident? But I cannot agree the Doctrine, it was necessary to purge, it is evident there was need and great need of Reformation; let not the particular errors of Reformers cause us to fall out with duty; But while they fail, let us as we should, seek the Lord with double diligence. I know there is much objected, but the matters most eyed, are first of purse-concernment, as the Taxes or Assessments for the Army,

the Excise, Customs, &c. wherein many that are contented to pay, do yet much repine at the inequality of the levy.

But as to them I must say, I know they in Supream trust have of late done much, nay, almost as much as in them lies; its particular interest now obstructs; the real truth is; corrupt principles have such root in us, that gain is above all godliness; men eminent could be willing all others should have Justice, so they might be favored.

Yet this one thing might well be yet provided for in the *Act*, that persons of not above four pounds *per annum*, and not able to work; or having a charge of children; and no personal estate, to the value of ten pounds, and not being Farmers, but living upon that, should not be charged; many now paying twenty shillings *per annum* to the war, who are fitter to receive collection; and many worth four or five thousands; nay ten thousand pounds personal estate, not taxed at all; or if at all, not above one shilling or one shilling six pence for three months.

The next matter chiefly eyed was (after the alteration of the State from a Monarchy to a Free State or Republike) to consider what should now be done to make good that freedom promised; and the first, or one of the first matters existent as a Law, was the *Act* for Treasons; the Objections against the substance of the *Act* as to the matters what is Treason, I for the present omit to relate, but pass to the forfeiture, which is to the State as to the King; and this some humbly conceive not agreeable to the rule of just Freedom; hear their reasons shortly.

They say first, That it is unjust to punish the childe for the fathers offence; that it is evident that this was not the original Law of *England*, *Nature*, or *Nations*, but the usurpation of Princes Heathen, imitated by Christians for profit sake; that it is a folly to think love of the estate, or of wife, or children, will deter, where the life is not considered; and that this layes the same foundation for the State to seek by the rigour of Laws to gain estates to it self, as in the King; so that now our condition is not bettered in our Liberties; for as our Supreames may be more merciful; so they may be more rigorous; the settled equal Law is the Subjects best priviledge.

Again, In the *Act* for Treason, they say, this seeking of interest is evident in the particular of Coynage of money, Clipping, &c. which being a work private, much evil may be done, and no legal discovery made, as late frequent practise in all places hath evidenced; but to put a penalty upon the offerer of it, would soon give a full stop to it; and that is the best Law which effects its ends with least publike or private detriment; now to forfeit the piece so clipped, filed, or rounded, would stop the currant; but to forfeit that, and so much more, would dry it up quickly, especially if it had an easie Trial, as before the next Justice, or two next Constables, or some certain number of the neighbourhood, and the faulty money immediatly to be cut in pieces: I speak not of Coyning, Stamping, Counterfeiting, and Washing; let due penalties be (by Law) imposed; onely trial speedy and easie.

The next *Act* controverted, is that of Printing; the Objections against which being publikely avowed in Print, though some may say more wittily then with sound Christian consideration, I shall here onely say thus much, that as is ther^e in part held forth, it is likely to be found the best expedient to stop the current of calumnious Printing, not to do things subjecting to scandal; and assuredly all moderate men will assert the Magistrate against the Calumniator, if to this end the Press were open, provided that each man would own his work; and like the old Greekish propounder of a new Law, write under the peril of his life; it might be an useful expedient to take off Tryflers, though it might endanger many, whose zeal were either too much, or knowledge too little.

I am now come shortly to the great rubb at present, which is the Engagement, against which none sure but preingaged persons can (as matters stand) object justly; for otherwise to resolve Conscience, we must ravel the Successions of all powers; for if the actual possession of the Supream power, doth not unable to require all Political obedience, then surely acquets without just Title are void, if so time cannot remedy it, if so it concerns all powers to justifie to each Scrupler, not onely his pedigree, but the justice of it from the beginning (I may say of the world) but it is plain the Boglers at the work are such as look for an other change: It is certain, Protection requires Obedience; and it is as certain that they are happy in Politicks, who in the Changes of Government are so disposed by the Supream Wisdom (for mans alone will not avail.)

that they exercise the extream or height of Rigidity or Mercy aright (for one is ever found necessary.)

And now I am come to the last great contest, the peoples Liberties : The questions are first concerning an extraordinary Commission to try sitting the ordinary Courts at *Westminster*.

For the holding up the hand, opening of doors, both which were pressed ; I fear rather to make a party, and oppose the present Power, then out of Conscience I omit them here.

The next was, Whether in Case of Life a man may have Counsel ?

A third, Concerning the lawfulness of requiring, and taking the general plea, not guilty.

The last, Whether the Jury be Judges meerly of fact or of Law also ; and to these well may be added two things more, namely the Queries concerning maintenance in prison, And arresting by an armed power in the time of peace.

All which indeed are of main concernment to the Nation and people ; yea, even as much as Lives and Liberties, matters of the most pretious respect with men, and justly to be inquired into, wherein I shall only shortly give the general Opinions and Arguments of men wise and desiring just things, but withall entreating briefly of the criminal part of our Laws prosecution which hitherto hath been purposely waved.

I take it, that the Law of *England*, according to the rule before laid down, owns a twofold way of bringing persons criminous to trial ; which is, that of appeal, of which I shall onely hint what it was, being now a thing, as before I said, wholly disused, namely, it is a prosecution of the party, be it for Maihem or Felony of any sort, and in the name of the party appealing ; which suit he might by the Law compoud for, and release, yea, if it were for murder (at least it was so used) which liberty being much abused, the parties, who upon the heat of the blood, that is, while the injury was fresh complained, were bound over by Recognizance to prosecute for the King ; and so were the Witnesses ; (but if the party, or the Witnesses, should refuse it, it might much be scrupled, what by our Law ought to be done to inforce them justly ; but Custome hath prevailed) to go by steps : The places of Trial of Crimes, are either the Ordinary, as Kings-Bench, or Statute-Sessions, or the Extraordinary, and yet Ordinary, viz. the Commissions of *Oyer and Ter.* and Gaol Delivery carried down alwayes with the Justices of *Nisi Prius* at the Assizes, or the legal Extraordinary, which were an assotiation of more men then ordinary, according to the novelty and exigency of the cause, most legally and usually made up of all the Judges of all the Benches, and no other, and heard in the Checkquer Chamber. Now these are not to be scrupled in themselves ; the other, and which are extraordinary and scrupled as illegal, are meer Royal Commissioners consisting of judges, Lords, and other men, according to the pleasure of the prime Magistrate ; and these were rare, and but in case of great offences or doubts of imminent, at least so pretended concernment.

And there were two Causes, the one professed, which was the resolution of many wise men sworn to do right, according to Law, betwixt the King or State, and the Subject, who by concurrent Votes assured the interest of either party ; and surely, were the Law by which they judged as plain and evident, as the reason or foundation of their extraordinary judgements, there would be no exception ; but the fear heretofore on the peoples part which is the ground to the present jealousies, was in respect that Commissions pretended of that nature, were aiding to the inchroaching vertue of the Supream Power, to the advance of Prerogative, especially after King *James* had made the Judges (which were the leaders in both these powers) his meer Creatures by absolute dependance in altering their Patents, as aforesaid, from during their well abearing to during his pleasure : How the Judges Patents are now, I know not ; but except the present condition of affairs make that now lawful, which in it self is not, surely such Arbitrary Patents are introductory of the heights of vassalage ; for if they in each Punctilio advance not the intendments and interests on foot of the Supream Magistrate, be it good or evil, for God, or against Liberty or Bondage : A Writ of Ease is next to be expected, and that engages to the gander of every malitious enemy, and he now lies open to the last of every accuser ; especially if any litigious person hath been overthrown before him. O how the man bulles, and now is his time for revenge ! our eys have seen this, and this I suppose to be the ground of fears of such Commissions.

I willingly

Not: bcn:



I willingly avoid Ravelling Controversies upon presidents, which in our Laws are so many, and so diverse each from other, and multitudes so contrary each to other, as supream or most excellent reason must bear sway; and then the *arbitrium* of the Commission will not be so much the question, as the Law by which judged. If it be objected against the adjoyning in Royal Commissions, that they are nor Lawyers nor Judges in Ordinary, but Merchants, &c. I say, there lies an Appeal to Parliament, from any Court, Ordinary, or Extraordinary, which receives Commission under the Parliaments Authority.

If it be objected, they are merely the States Pentioners, then the Argument is against the Supream Magistrate mediately, against their Judges immediately, and is remedied by appeal; but this is manifest, that there is no necessity of these Commissions; they were continually declaimed against, and denied as one gap to invade the native proper liberty of the Subject, and if now inforced, can but foment jealousie against the State.

Having now found out the proper Courts of Trial of criminal persons; let us see who the criminous person is, and how to be dealt withal; the criminous person is vulgarly taken to be him that is accused, Legally him that is convicted, not differencing where upon examination before the Justice there is confession of the party, full evidence upon oath, violent presumptions, or barely suspicion; but all are dealt withal alike, except they misdemean themselves; and in case the matter be baylable, baylable alike, few Justices looking at good bail, but all the Clerks at their Fees; in which case much error is where the Clerk is Justice of the Peace, or &c. and the Justice not able, or too proud to draw a Warrant himself.

Now by the Law of *England*, and just reason, mens liberties being highly prised, heretofore men were to be tried the next Gaol delivery; I mean at the Sessions for the County; but now by a Statute made in the time of *Philip and Mary*, or at least under pretence of it, all matters criminal being death, that is, out of the Rogues City of Refuge; that is, to which they cannot readily plead guilty of all Felonies within Clergy, the still continued shame of *England*; so that some use a hateful Proverb, (All Rogues to the Clergy, and all Clergy to the Gallows) they must be tried at the so called Assises.

This Statute was a great friend to the Clerk of the Assize, above the Clerk of the Peace; and those Justices that will not see this Statute, the Inquisitive Clerk of Assise can spy his time to fit him if he cometh in his compas, which may be every Assises; and though present, put him down absent, so he is fined forty shillings; and to remedy it, will cost twice so much.

Now in the Gaols, the Schools of Iniquity, they are not employed; and if any one will employ himself, he must purchase his liberty to use his Trade at the Gaolers discretion; for there is no Law for it, no not for Debtors; so that having nothing to do, the Prisoners confer notes; and the older Thief, Cutpurse, &c. still instructs the younger in the revealed quidities of the Law.

Vain people think highly of these nice evasions of Law; but the serious sees it makes the Law ridiculously difficult; the great Rogues scape, but the ignorant and unexperienced dye for it: All honest men love mercy, and are as loth simple Felony should be death as any; but they would not men should by Custom abuse just things, or endure unlawful ones, or connive at wickedness.

Yet these and multitudes more well known, have long and do still pass unremedied, or are provided for but in part, or for a parcel of the Commonwealth; So that it is certain, the generality of men which once come into *Englands* prisons of all sorts (as now used) are spoiled for ever, both as to industry and honesty; yea, so notorious is the evil, that I have known many Justices avow, it was their sorrow to be in place, to be instrumental to such evils, by sending one for his first offence to Gaol, and likely to be amended; but sent to Gaole (whither he must go) he was irrecoverably lost.

Now for maintenance in prison, originally in such cases as the State was forfeited, as in Treasons and Felonies which were tryed very speedily, the State was seized by a publick Officer by way of securing, and the wife and children if any were, continued in the house, &c. giving security the goods were not imbezeled, and nought removed or sold, unless for the maintenance of the prisoner, the forfeiture then reaching from the time of the fact committed; and then though this were just, there was this injustice

that the forfeiture paid no debts, an unjust and unchristian thing, yea if opened, the loose or inlet to abominable, cheating cozenage and knavery.

Now the Law is (that is, practice constant) that the prisoner maintain himself, till himself, wife and children are undone, by selling all they have for the maintenance of the prisoner, and paying Gaole Fees (though he be not guilty, a most wicked thing) and this happily for acts or words no way Treasonable, Felonious, &c. or for such matter, which none but a malicious Adversary woulde have prosecuted.

And to say the King paid his prisoners Fees, is but to argue from matter of fact; for take a prison properly, it is but as a pound to dammaging beasts, and in the proper pound the owner must provide for them, and they that offend must provide for themselves, or rely on charity; It is truth, it is but just, that in case of (so called) illegal, or in cases dubious, whether baylable or not, or where baylable, yet for good cause denied; and in all extraordinary imprisonments, that is, by absolute power in limited Monarchy, being causes for which the Law provided not, it seems reasonable, that the same power that commits should sustain, untill the Law adjudges the offence; for in that case the restraint of a Free-man seems punishment enough; now for such a man how he comes into prison, that is, whether by the ordinary Officer of Justice, as a Constable, or by an extraordinary hand, as by armed men, is not material; but the Quare must be rightly stated;

That is, whether in a time of full peace, no enemy appearing, nor to be feared, a Subject may be by Law arrested by an Armed power; as to this it is said, that considering Law to be the issue of perfect reason, it is a matter worth mature advisement; for the life of liberty lies in it, that is, the refuge of the Subject against the powers or authority, call them what you wil; for commonly the Souldiery are either in body, and so obey no common Arrests and Processes of set Courts; or dibanded; and seldom an active man in his own County, and well known, will appear in acts of high dispriviledge; so that offenders in this kind are seldom worth suing upon a trespass, and the law of retaliation rather satiates the brutish then the manly passion or affection, and bondage for satisfaction hath been hitherto exploded.

Others say, the crime is to be looked at, and then no matter who executes it; as in Felony, each man may by Law arrest; and then if every man will, it is neither Riot nor Conspiracy, what ever it may be called; Others rejoyn to both parts, and say that they are sadly distressed to see the various interests of persons, leading one way to day, another to morrow, which their diversity of opinions fully demonstare. They desire plain truth with Injustice, and to that end they say that both are lawfull, time and person considered; and that this consideration is and must be left to the Magistrate, who must not stick so in the bare letter, that he lose the evident meaning of the Law, and ought to be punished as a defaulter against his trust, should he not in some causes use extraordinary power; for the Commonwealth must not be without sufficient power to defend it self.

And therefore they say, that if the Law doth not provide for such emergencies, he ought to be defaulted if he improves not his power to the discharge of his trust, that is the peace and safety of the Commonwealth, though he incurs the lurch of the Law according to the old Letter.

The example was under the late King James at his coming to the Crown, when after the death of famous Elizabeth, the County of York raised men and armed them against a sort of out-laws, which Act was by the letter of the Law Treason, &c. but upon debate, wary enough, it was resolved their duty, and they had their pardon, against which only some object, saying, that if in reason they offended not, why shoulde they be pardoned?

Now this is answered, others might else be imboldened without due cause, which say the objector's is nugatory; there is nothing of weight in the case more then the Officers Fees of suing out the pardon; and to stop that scandal, let such pardons issue of course by a day at the Officers penalty; so that the party shall not need pay for expedition; but as to the case in hand, it is propounded, that in cases of doubting it were better to assure all fears, to let the Souldier be but assistant to the settled officer, and not used but in evident necessity; but the thing is the same; I must agree the prison may be anywhere by the law, which men in point of favour easily plead; but touched, then the Court of guard is a prison, then White-Hall, the head-quarters, every thing is odious; but

but were this same man put there under what he counted a civility, it should be acknowledged; it may be therefore of great policy this was left in the Judges breif, to endear by such circumstantialls where he saw cause; but this was altered upon good reason in part, and prisons made publick, set, and certain, &c.

The next thing is, to bring the prisoner to his Tryal, wherein the Law as I said, favouring life, gives priviledges of no evident reason, in case of crimes worthy of death, especially the certain offendour present.

Truth is, if the pretended Law of *England* did, as many of the Officers of it do, think one thing, and speak another, tell them they are to dye, while the prisoner knows Mr. Ordinary (say the Judge what he will) will openly, prophanelly and unchristian-like of course lye out a *Legit* (though he knows never a letter, and his conscience never grumble to give sentence accordingly) it were not worthy question, but evident reason being its guide, why should they question thirty six men without any cause, or with a wise Sheriff, &c. is that so called priviledge ought at all? yet this in some cases is highly advanced; this past, and that he is to plead, which ought to be openly, the doors not shut during the Tryal, (the Law of God, of *England*, common reason, and constant practice of Nations agrees it).

First, he may make all by the Law void in the Letter, by an appeal; yea I take it also without shewing any cause.

Next, by pleading to the Jurisdiction:

Next, by denying himself to be the party, with multitudes more, how evident soever.

Which Laws in the letter, being taken advantage of, as one for example; one first called said nothing, then shewed his name was not *John*, but *John-as Jenkins*, therefore not the party indicted: That amended, the Clerk goes on, *John-as Jenkins* of, &c. he answers not after much debate; there is two Towns, one *Hopk. Pet.* the other *Jo.* and the Indictment is general, he knows not which; that agreed on, then his addition is mistaken, as he is Baronet, indicted Knight, or Knight and Baronet; but all agreed on, he is then to plead, and to this he pleads,

First, strange dilatory pleas, as that the fact was done in another County, &c.

These breeding great trouble and great delay, were both in Civil and Criminal cases in great part rectified; but so jealous was the Parliament ever of the thing called Priviledge, that all was never done (though it may be the greater evils were removed) so that there are causes enough still to dally in Law, to general disadvantage of honest and publike good, and no liberty but of general capital offenders.

Now the reason of this was evident, because the Subjects Liberty was by Princes sought to be totally enslaved; the best and wisest were most active in opposition, and to save these good men, we ensnarled the Law, and till now had never opportunity of rectification; if yet we have this seen by the Crown side, they engage three wayes, by Judges absolutely depending, A Jury of Conformists, and the general Plea, not guilty: And thus Prerogative and Priviledge fought; And surely the Law holds forth matter so clear in the Year-Books, on the one side by Presidents, Rights of Supremacy, dispatch of busines, &c.

On the other side, by Presidents, reason of Priviledge, for safety of Life, that the controversie seems endless, and yet Justice is plain; let him plead not guilty, but withhold all give what other matter he can in evidence, which the Court ought to accept, and upon the whole matter, to give judgement, hearing himself and Council; which surely if in any other Cause, Matter, or Plaintiff, a Subject ought to have, then much more in case of life, especially if the Law favors it; and more especially where the Judges are the meer Dependants of the Prince or State; which jealousy cannot be satisfied without, if withhold other things can be supposed any way requirable; and therefore it hath been accounted for Law, that the Jury were not barely Judges of the fact; but were surely intended as a barr to Prerogative in some sort or dependance thereon; for they may be without all doubt so far Judges, as to finde the matter specially, will the Judge or nill he, and if themselves will venture an attaint, may be Judges of the Law indeed against the plainest evidences.

So that it is evident these questions are easie to be controverted, and hard to be determined, yet not in themselves, but only because of the divers interests in this, as in most matters in our Law, wherein the Crown had any hook, according to the prevailing

vailing of their party, having laid foundations for their own benefits, and advancing their particular designs, which is the first rise of the controversie about the Militia, which never was in *England* in the Kings hand, otherwayes then that of Tenures, the *posse Comitatus* being alwayes the proper defence of the County, and not subjugated to the Kings will or Royal Commission.

Now the reason was, War and Peace was nominally in the King, really in the Subject, because of Moneys, which could not be charged without consent in Parliament; some upon this ground a Quære of main concernment;

Namely, what are the Laws of *England*, or where to be found? Some as I have said, answer, the Law of God; others say, excellent reason; some the Law of Nations peculiarized by use; others say with the Lawyers, That the Law of *England* is founded upon the Law of God, the Law of Reason, principles called Maximes, Customs not contrary to reason, received time out of mind (and proper *quarto modo* to the people of the Nation) Statutes, and the resolutions of the Judges: To this it is objected, that these generals teach or edifie not what the Law of *England* is.

For the Quære is, If the word of God, whether all, or part; if so, the infallible, or at least certain Rule (pleadable) to know which part; they require the like certainty in reason, and the Exposition of Principles and Customs; for they say all these must solely depend upon the Judges, and then the Law in their opinion is wholly Arbitrary; for if their only word makes it reason, and their only word determines the end and meaning of the principle; and so whether custome be good or not, then it is merely at the will of them; and this they say experience manifested in the great Cause of Ship-Money, wherein had not the Sword been the better Arbitre of their priviledge, the sentence had been irrevocable to enslave them all to the King; Therefore they say, there must be common reason, or some head-Rule, which must judge most excellent reason, not that they intend vulgar decision, but a judgement must be tryed by its conduced to publike good.

The Rule is; Good, the more general and common, so much the more precious; and from this they conclude all these heads of the Law of Nature or Reason, Principles, or Maxims, and Customs to be all the same with the *dicta sap.* or resolutions of the Judges; and then whose creatures they are, and from whom they have their honour, pay, &c. to them they will be bound, which they cast not by way of *odium* upon them, but common to them with all men to enforce and improve all their abilities by the first principle of nature, to the preserving self; and this they do, and better self, in advancing the Title and Interest of them upon whom they depend.

But they say, this is as fatal a hawk to liberty to have such an absolute dependence upon a State, as upon a Prince, tending to the same end of enslaving the people,

Yea, reducing a State from a *Democracie* to a *Tyranny*, as well as from Royalty to *Tyranny*; for they say they have heard from Lawyers, and it is a general complaint, That the Laws of *England* are they know not what (at least a wise, or so called Politick Judge, may make them so, and that this is easilie done in matters of highest concernment.)

Take them to be the Law of God, no such matter; where is ought according to that rule? (They exemplifie in *Henry* the Eights Law for marriages made merely for private interests, and now for the same neglected) for Gods Name is scandalized, profaned, blasphemed, and not regarded; horrible adulteries, and some say, incests unpunished.

Yea, all the rabble of Popish, Episcopal, and now so called Presbyterial Professors (that is, the baptized Christian) are guilty of walking clean contrary to their profession, yet no way punished; Gods Sabbath contemned; god-Mammon, that mental Adultery of Idolatry is most of their sin, common to them with their other brethren in the flesh, by what names soever called or known.

And for the duty towards Neighbour, there is nothing but envying and malice, forfetting, gluttony or drunkenness, the Nurses to Adultery and Lasciviousness, with pride in apparel, and abundance of idlenes, which increasing, poor increases, and by them necessity, and that brings Theft, or Covetize or both, and sure among such to swear in truth will not at all be regarded; it will be thought cruelty not to tell an (Officious so-called)

(called) lye to save thy brothers life, which now makes it nothing to have lyes sworn; this brings scandals upon seats of Justice; for these things known and not remedied, if possible, will asperse.

But some say, some Judges make no conscience of such acts; they exemplifie, not only in Ship-Money, but in ordinary Tryals, while they deny justice by delaying, and admitting the continuance of delayes in justice, and sometimes go against their own knowledge in the Law; as in the case of admitting such to read as they know cannot, and more evidently such as are not capable by Law, as those branded before, not once, but seven times, whereby the Rogue is as preserved, so encouraged; and this because due notice is not taken of persons branded in the Calender, nor Records penally presented in Court; to which, though ignorant persons answer, they will not come there again, but act their Villainies in another County; wise men will not, who know the Law admits no going out (for it will prove wandring in such of necessity) but with Certificate; but the true reason, though it cannot wholly excuse, is the best; namely, they think the Law too hard, and would rather have constant work-houses; but there is two evils in this so just, so righteous a proposal, to change this Law; for if either work-houses or due course of certificates were settled, the Commonweale would be quickly rid of such vermin.

But then the first evil appears, namely, Clerks Fees would cease.

The next evil is the matter of charge in building, repairing, and maintaining the houses, and Officers, &c. for a work-house in this age, where building, back and belly eat up all, will hardly be maintained, much less raised; but to be well provided with stock and Overseers, rather venture all.

There is complaint against our now Judges taking Fees (if so they do) having yet 1000. l. per annum, that Fees might be discharged.

But these Complainers have one word more to the Law, that is, they say the great Charter of Normandy they own rather to be the old Norman Laws before William the Bastard, then the Law of England, though he might well labour to introduce the whole plot; Truth, it will serve to discover the Reasons of our bondage, and that's all, which while Copyholds are not discarded, together with Crown Tenure, we are not freed of.

For *Fleta* and *Braffon*, they say, they are the meer heads of *Justinian's Institutes* a little corrected according to the guise of *England's* Principles of liberty above the Ancient Roman, or State of *Greece* in the height of the Empire;

Yet for that, exploded by the Kings Judges. For *Horn*, *Britton*, *Glanvil*, they are reputed more *English*, but may be as well *Scottish*, *Swedish*, or *Danish*, especially *Glanvil*, who if compared with *R. Mai. Scot*, the old Tenures, Customes, Services, Writs, &c. are the same word for word; the other were they who drew the Traditions of our fathers into form, by insensible degrees, raising debased *Engl.* to a glimmering of Native liberty in the use of a body of law; for it is plain *England's* Law unwritten could not be well known by the vulgar.

Foresene taking the advantage of the contest betwixt *York* and *Lancaster*, declares more freedome (happily then consists with reason in the letter) Now all these books were altogether exploded; *Fleta* and *Horn* not permitted to be printed, but hung up by the licence liberty; and all that was the common reading of the Lawyer, was the resolutions of the Judges in the so called Year-Books, which have no date beyond *Edward the Third*, there being then a stipend given to certain men constantly sitting in Court, to report the reasons of the Judges, so that let them answer at their perill; for now their reasons were permanent, and brought to strict judgement.

Yet they still had their evasions in cases of great interest, either for one Kings Title or other, for Prerogative or Privilidge, as particular respects engaged, and providence favoured, as was evident in the case of *R. 2.* and his judges which lay asleep from him, till our late *Charles* revived it, and suffered publickly for it, as *Richard* did privately; far the more manly and exemplary way of the two, and rational it is; for if it be lawful for man to give Law, he may and ought to enforce; and no way can be more consentaneous to order, than that of the body Representative, which is not in this case denied either by the Regular Presbyterian, or violent so called Interdependent; only they deny this a Parliament, as before is said.

These Reporters wrot till *Henry the Seventh*; there are some fragments of *Henry the*

the eight, *Edward the Sixth*, and *Q. Mary*, and *Elizabeth*, taken by Students then, and since, which are called by the names of the Authors, as *Kelway*, *Petty*, *Brook*, *Dyer*, *Plowden*, &c. with some particular assertions of others, but none durst write freely. Lord *Cook* put out several Books of Reports, all which being principally matters of Title, or betwixt party and party, swam down stream: Now in most of these were matters altered at pleasure; for out of these books it is easie to argue black white, and white black; Reason was cut into such fine shreads of wit (and form which is as vain) that judgement was puzzled to find something where there was so much of nothing; and if any thing were, it was so disjoyned a piece in 1^o. *Ed.* 3. debated further 18^o. further, Proces in 23^o. and finished 31^o. Jan. 24^o. ultimo *Regis Caroli Rex ultimus Britannorum.*

A subtile Oracle, true and not true, let matters pass as they will, so that in such a confused study who could learn ought, though helped with *Fitz-Herberts*, yea and *Brooks* Abridgement; for the old Books and the late Indexes, the least too big for any book of Law for a Nation, where each is to be supposed knowing of it, and no man excused by his ignorance.

Now for the Crown Law, of which we had no compleat Tract but *Stamford*, the Lord *Cook* treating of that particular and tacitly in his both Jurisdictions of Courts, and Expositions of Statutes, holding forth not only the bare letter, but a rational disquisition of the Texts, they also were estopped; and well is it, say some, if they have not met with a concealed Dominicane Expurgator, or Jesuitical Emendator, there being such hard hold on all sides, for them, and against them, since published.

These things resented as grievances in the Kings times, and promises to be ruled better then under the best of Kings; the King gone, the enquiry and expectation is, what alteration.

If we quære among the Professors, O Lord what cause is given to the Adversary to blasphemē, while many seeming Saints, earnest Professors and zealous above multitudes, count God a mockery, his Scriptures politick obseruations of prudentiall men!

The Devil, every man that is opposite to their worse then Heathenism; and how few glorifie the Lord in these things, and magnifie his mercies to them, that they are not withdrawn, but rather make use of it, through the subtlety of Satan, to upbraid the Truth with Error and Heresie, Contradiction and Confusion; and these affuse themselves, that the godly wise Bishops foresaw this evil which is now befallen the Churches of God, and admire their way, when they and their way are perished together with their revenues, which were according to their own method totally abolished; only the seat of the Beast is by providence reserved, to what end I will not prophesie; And who mourns in secret for these things? In the Commonwealth they see little; but hope, though the unseasonable oppositions hinder at present, they shall see it in due time effected.

If you look at the other party of Professors, whether Congregational or Presbyterial, their jealousies are as great; and notwithstanding the Independent (so called) had the right hand of fellowship in the present power, and was not so rigid towards the Presbyter; yet the root of opposition sprouted, though I hope the light of grace will nip it the bud.

But the Presbyters interest is the root of the image, the stump, and will not easily yield, I mean humane prudence to be admitted the Church.

But look to the ordinary Parish Priest, of what opinion soever, they are as disaffected in the generality to God and goodness as before; for as in branding the Clergie Rogue, there was no Register, so that the Rogue had priviledge six or seven times; so the ejected Clergy for want of registering and transmitting to every Committee the ejection, the scandalizing ones are admitted five, six or seven times over; and let a stander by judge; he cannot find this to be done upon any rational ground, other then more work for the Committee, and so more fees for the Clerks.

And if it were not such listening or trusting to Clerks, what could draw from such wise men, sober, grave, and outwardly pious, things so dissonant from reason, and their profession, and the intention of their original constitution, by this means as probable or the like? the work is great, much done, and never the neerer an end; for tu:n

turn them out of *Norfolk*, they go into *Suffolk*, thence to *Lincoln*, &c. And just and good men are ejected upon small matters rather then contend.

And the pious zealous Christian against the evil one is tired out with vexation of minde, labour of body, and purse-painment under renewed evils of the same stamp; so that the most andworst still remain, and many ill ones new settled, they are discouraged in the removal; and the great root of this is Tythes, which tis clear for the Parsons take few regard; but the chief man favoured is the rich Impropriator; I pray, is not Tythes more due (according to the original ground of Tythes) to the Priest, then the Patron, or Lay-person; by the old Levitical analogie, then *Hen. the Eighth's* new policie? is the old inheritance in Parson, Patron, and Ordinary, of less strength, or less inheritance, then that in the impropriator, who hath but upon grant upon a politike forfeiture? or is it not evident to Reason by the rules of Scripture, Law, and Reason, that he is not capable of them?

He is not the labourer, not the Ox, not his lips that preserves knowledge, not Gods Husbandman, and himself dares not own either Evangelical, Pastoral, or Priestly Office; and it were well he practised but as an ordinary Christian: but it is said, the reason of all is Interest; for the light hath manifested Tythes no way due to the Gospel, nor any certainty but a sufficiency; yet this sufficiency resting in the arbitrament of the people, but these gathered into Churches, and the Church is then a Judge: Some from the inspection of error, past, and present, that is, the general ungodliness which is in men, fear that Tythes put down, there would be no maintenance allowed, and the same confusion would follow, as in *Germany*, the best Minister most contemned, therefore they are continued; this argument is agreed a principal motive to continue them.

But it is answered, That the ground-work is too weak; the Disciple is not better then his Master, nor *Englands* Pastor then the whole worlds Apostles; there is no command for it; why then enforced, and that to them who Preach not, Preach evilly; persons not qualified according as the Gospel holds out, either in the first of *Timothy* the third; or in the first of *Tir. 9.* but commonly all contrary.

Neither are the persons qualified in the promiscuousness of Parishes as the brethren ought to be by the Word of God, yet these duties enforced; therefore say they, so long as these corrupt interests are, there can be no propagation of the Gospel; consult not onely every Friday, but all the week; they agree the common liberty (which is the interest) is a great mercy of God, but if not sorting with interest, if matters mend not, they fear interest may take away, as well as give liberty; they hope better, but in the fluctuations of matters they fear; let the cause of complaint be taken away, and they will count it their sin to complain.

Thus you see the Church so called generally as it was.

A short view of the Commonwealth, and we will leave our Historical part.

First, in the so called Parliament (as men commonly term it) a few onely existent, the onely accused kept out (no further charge, no legal expostion, nor new admission, nor no way of ejecting members by their Representors in case of failer of duty, as Non-attendance, &c. They advise to remember how many went to the building the material Temple; therefore they would rather then eject, double the number) So that many Counties have no Representatives admitted, others not appearing; and there being false principles in all estates, degrees, persons, &c. they are jealous that our Senators may not be wholly pure, especially they having heard of the great strife men make in Parliament for the advantage of the places for which they are chosen; and he is highliest accounted of, who benefits more his particular trust, then the general good of the Nation: men may, as they have been, be carried away; they fear much, and therefore desire a filling of the house by an equal Representative, not desirous at present of a new, to avoid some fatal evils that are foreseen in the same.

In case of the Council of State, which they oppose not, they onely desire it may be so limited, that it grow not from an Oligarchy into a Tyranny, which gives just cause of fear, while of Parliament men, and those perpetual, and no power visible to question them, they are not responsal for any wrong, and to put any into office with them, not Parliament men, and so responsal, except their brethren in power beat them out; there is injustice that one should answer, another not for the same fault.

They rather desire some fit way of choise, of one man out of every County in the Nation;

Nation : from them come to Committees delays ; the complaint now foreruns the new instituted Committee of Accompts ; all Receivers, Treasurers, Collectors, &c. will have fine work, no Rule, Order, &c. but bare *place of &c.* But the Officers of Sequestrations will have the best share of trouble, who have accounted in the County to the Sub-Committee of Sequestrations among themselves to the Sub-committee of Accounts there ; Now all must account at Goldsmiths Hall, and then to the new Catholike Committee of Accounts, as if Officers were but to drive a Trade of maintenance by whole sale and retaile, from one shilling *per pound* to nine pence, then to six pence, then to four pence, three pence, two pence, one penny *per pound* ; and that drawn out again in two, three, four, five, six, seven, eight, nine pence, &c. *per sheet*, to Writers, Clerks, Accountants, all after the form of the corrupt Commonwealth past.

There are honest men of all sides say, That they fear no policy will prevail against truth, that is, they hope, though it be so feared, upon which they offer to consideration, whether it were ought but corrupt interest that made good men bad Bishops ? And whether it will not upon the same Rule make good men corrupt Officers of all sorts ; therefore they hate as much to hear of one shilling *per pound*, as of Patents during pleasure ; or to some for three years, while all are not so ; and then not capable of so many years more ; for the remote contingent dependance is evil, though not so evil as the more immediate and absolute : Indeed there is a great complaint, that not onely things complained of, &c. remain still the same, but grow worse ; Inns, Taverns and Alehouses multiply, to the out-daring Justice ; irregularity in all Trades, &c.

Neglect of all inferior Powers in ordinary Jurisdiction ; The orders issue, That all is left to be done according to Law ; but that so dilatory and difficult, that no wise and honest man dare meddle with it, so that many faint and say, what they expected to be *be* the Lords deliverance is his Bondage ; many while in the Wildernes, with they were in *Egypt* again : there are that call for Kingly Government (as you well perceive.)

Yet were they the instruments to his overthrow, vain and impatient spirits ; some rebell against you to make themselves high, indeed like Corab and his company, for they say, What are you, that you shall reign over us ?

Therefore they say, Let the old Race come in again, let not upstarts, &c. now these are the Lords Remembrancers to you ; you are of the same frame and temper with other men ; And you know mans condition since his fall, he hath shaken off the pure Law of Righteousness, as an insupportable Tyranny, and we are wholly led away of our own lusts, and *Satan snares us under the notion of Liberty.*

Thus are we become mighty in mischief, the devils policies are easily learned ; but his stratagems difficultly, if at all, but by grace discovered ; this makes us more subtle to deceive our selves then others ; but God assuredly will not, cannot be mocked ; this makes many fear mercies are given for a snare, that is, for future and greater Judgements, (which the Lord prepare us for, if so determined ; but if it be his gracious Will prevent by our returnings.)

By all which now it is evident, that the Apostacy and defection hath over spread both Churches and Nations ; the people of God, as well as the men of the world ; that this Apostacy hath been, yea is in *England*, &c still working as vigorously, if not more then ever : Satan now rages, and the chaffer of the Whore is not yet expulsed the Camp of the Saints.

The stone hewn out of the Mountain without hands in the Regiment of the Lord Jesus, hath been rejected as Chyliastical, a notion too obtruse in learned Scripture sense, how plain so ever in the vulgar letter.

All that I say to them so reject it, yet look for Christs coming, is, let them take heed, that as the *Jews* eyes were blinded in looking for a Prince, and lo a Servant ; That we be not blinded in still looking at a Servant Christ when he will be exalted, lest in stead of one we raise up many Antichrists, and set them in the Seat of God.

I would not be mistaken, I plainly mean with what limitations we intend the Magistrate to be the keeper of the Keys, which I fear can rest in no mans hand but the Lord Christ's, let him have all the power the Pope, or Bishop, or Clergy could claim.

But I say, the fellowships of Saints are freed from the enforcing power over conscience *de jure*, though all evils (as well as sins) may befall them with others for disobeience to unjust Laws *de facto* ; You whom God hath called out to the work, have a great

great task, be not found idling, or about other busines, that you are securing your great estates, or laying out your hundred thousand pound in a settled way of lands, &c. will be a weak answser at the great day of account. Give not occasion to evil men to speak evil of the Lords people, and of his wayes for lucre sake.

England offers it self as a white Paper to receive any Print; you need not at present out of fears of a change pretend a new Representative to quiet spirits; No, the people are as the *Israelites* at Mount *Sinai*, feared enough with the thundrings, lightnings and Trumpet of quarterings, Sequestrations, and dilatory attendances, that they are resolved, speak you like *Moses* to God for them, and what he saith they will hear; there are some or other particulars ready to fly out, and say as *Corah*, Am not I as good as you, as wise, learned, vertuous, godly? &c. in impatience of spirit.

But blessed be God, all the Congregation have not yet said as they, You have slain the people of the Lord: We know, say some, the difficulty of the Work, if there were no opposition; how much must there then be where there is so much? sit not still, find time to settle least God take you away; let's at least see the fruits of your labours; and if you think it not yet the time of Christ's personal, yet it be of his virtual Raign here; let there be a plain, sure, certain, easie, settlement of affairs with that charitable affection, that sociable, suitable behaviour; that clearness, and that in simplicity which by the Laws of Nature is due to our fellow creatures.

Enforce unjust men to cast away the masque of hypocrisy in simulations of Piety and vertue, to gain advantage to lavage gripings and extortions.

If you cannot allow the heights of the *Gospel-Liberty*, allow us but a just settlement upon the evident principles of natural equity, or ruled by (to avoid contests) the *Mosaical* *Judicials* as the boundary, or prescribe your own way; this will admit satisfaction to many interests; and if rightly regulated, none in themselves corrupted, else we deny our holy Profession; *For the grace of God that brings salvation unto all men hath appeared, And it teacheth us to deny ungodliness and worldly lusts, and that we should live righteously, soberly and godly in this present life;*

Looking for the blessed hope and appearing of the glory of the mighty God, Who gave himself for us that he might redeem us from all iniquity, and purge us to be a peculiar people to himself zealous of good works.

Now these good works are shortly laid down in the *Gospel* thus, in obedience to Principalities and powers, &c. and that not onely Kings, but inferior Magistrates, yea Husbands, Parents, Masters; yea, to Teachers, Elders, &c. or any sett over them, of, or in the Lord, taking care for all sorts of persons in the relations political, both Publike and Domestick; and also in spiritual: Its truth, the qualifications of Magistrates under the *Gospel* are not directly spoken unto in the *Gospel*, which gives a ground to some to altercate, whether Magistracy may be under the *Gospel*.

But Generals may sometimes be gathered from particulars; the principal scope tis true of the *Gospel* shews the worlds enmity with the Spirit, and the special enmity refts in the Princes, Powers, &c. These are the men with their carnal interest.

But the Powers simply considered, cannot by that be opposed; for because I will not admit an evil Magistrate that is a terror to the good, shall I not allow him that is a terror to the bad? because it was a shame that the *Corinthians* went to Law before Heathen Judges, shall each one do what is right in his own eyes?

No; *St. Pauls* Let's not sin that grace may abound, includes much; And so that qualification of an Elder of a Church; those mental excellencies, soul-beautifyings of a spiritual Ruler; no Mitre, Crown, Bells, Pomegranates, Breast-plate, Ephod, &c. are to be allowed; no outward blemish; Though that was admitted among some Bishops of the Primitive Church, is now just exception.

If such purity in Elders for the Church, then surely also for the State: by this all the Typed *Mosaical* qualifications, and more also are required; Indeed, the words are mean and low; but the meaning is transcendent; I shall therefore shortly, according as the grace of God gives me, give a short essay to the principles of a Christian Government, and resolve most of these Queries which here seem but barely controverted without determining.

I truely faint under the burden, knowing my own weakness, and the mighty wisdom which I know in some, whom I cannot believe, think an alteration necessary, while they have accepted so great places of honor and profit, in what I must think wholly corrupt

corrupt, and the world calls the prophane Commonwealth, or Babel in the Magistrate ; that is, they are feared principally to adore the Amusive part of Justice in the formalities of Robes, as Judges Caps, Furs, Blacks, Serjeants Gowns, &c. the same with Rochets, Caps, Hoods, Gowns, Tippets, Surplices, &c. So for Officers of Courts, so for Appeals, the same for dependances upon the Supream Magistrate in degrees by way of variety of Courts, Officers, &c. as in the Bishops course, from the Chancellors and Arch-Deacons Courts to the High Commission.

So in the Presbyterian way, according to the course of the *Sanhedrim*, from the Parishional to the National Assembly ; All which hath in it but a form of Justice, and is delusory : necessaries I admit, but no more : I affect not the *Laconick* harshness, nor the *Stoical* superstition, nor the *Anabaptistical* confusion, nor the *Persian* pomp and vanity.

Yet I think it was the more honor for the *Greeks*, that they were learned, valorous, and free, though with little pomp or ostentation, then to the *Barbarians*, that they were pompous and bondslaves; rich, but had nothing their own, cowardly and ignorant, obedient even to shadows ; an Ape or Hound of the Kings in the formality should have ruled them as well as the King himself, for they were ignorant : I would therefore have Order to prevent confusion ; Obedience flow from Knowledge in civil things, as from Faith in divine, yet all for conscience sake ; otherwise the Law will never go further then half way, and that will rule and perswade where no Promoter or Officer of State can.

Therefore I say, pretending to a Christian Commonwealth, I there explode all bare Forms, they are above them ; necessary Forms are admitted, for they must be, but Forms of bare interest cannot, will not.

Happily you will say, This will put the Magistrate to a demur, whether then he should have two Forms to govern by in the same Nation, but that *Quare* will be useles.

For it is intended the Christian Magistrate should wave all those Amusions, and onely in the power of Righteousnes do Justice, keep the Law of God with his whole heart, make it his study ; and due execution of Law, and propagating the knowledge of it in an easie civil Charechistical way will soon shew, that Form is a very Idol, no more then the Goddess Opinion ; to which I fear not to say, they sacrifice who so much exalt Form. Now know Forms are also in delayes ; as not to give Judgement in a plain Case of Law the same day it is complained of ; it is Custome not Form to weep lamentably upon the Bench at the giving sentence of death, when this passion arises not from compunction of soul, but weakness of Spirit, and this weaknes is evidenced by no care for soul after sentence past.

It is then therefore suspected to tend specially to self interest. Truly our sweet Fountains of Justice are imbibited ; we looked with the Prophet for Justice, but its turned into mourning ; for Righteousnes, but behold a Cry ; the excessive Fees of all sorts, the Selfish formal hearings, the dilatory attendances, the usual squeezing, griping Officers, as Undersheriffe, Baillifs, Registers, Clerks, &c. all continued, whereby the poor is sold for nothing, and Justice at the rate of Customs, and Clerks Fees, which I nor no man can call a bribe.

O you that sit in Seats of Justice, beware ; the Lord hath a controversie with the mighty, and to pull down those in his glory, he doth it in Justice, and his Judgements are true ; good intentions so called, will not excuse before him that searcheth hearts, yea to the dividing of soul and spirit.

Know this you great men, if you seek to uphold any interest against the Lord, it will down ; yea, your own hands shall work your own overthrow, you may have seen it in the mighty works of God hitherto ; and if you will not perceive it by whom it is desired, the merciful hand of God to you in correcting of others, he can soon lay the rod upon your shoulders also ; and think not that because God gave you long since to see this change, and then to seek him and his glory, and that he hath (if he hath) made you instrumental to him in this his work, or thereby, or hath given you places of honour or great profit at present, that therefore you are in the right, and under his protection.

No, then you must break every yoke, and pluck down every Idol, and labour to bow all interests, and powers, to be subject to the sole Regiment of the Lord in truth and righteousness, and in so doing, the grace of our Lord God will be with you, and guide you by his grace to glory.

O Lord, let the prayers of thy servants for this be heard of thee, and make all men through thy power to improve every place, talent, and opportunity to the advancement of thy Truth in Righteousness.

There is now but one word concerning the Court of Chancery, which was the Court of equity for the Subject in general, as that of the so called Requests was in his proper nature for the relief of the Kings Servants upon any equitable matter arising within the verge of the Court, where at least one party was to be the Kings menial Servant, however the pretended necessity of some, and reall of others abufed it.

But that of the Requests gone, let us hear the opinions of men concerning that of the Chancery; and they say, that this Court of Conscience is grown as unconscionable as any; and the interest of profit to the particular Officers is as great and as destructive to publike good as of any Court, if not more; for suits in Chancery, are as common and as obnoxious as Writs of Error.

They say, the use of the Court is intentionally just, that is, that where accidents which could not be foreseen nor avoided, casts the right the contrary way to what the justice of the Law intended, that it should be there remedied.

But they say, this ought first to appear at the Common Law, and then the whole matter transmitted from the Judges there to the Chancery, to be there decreed shortly.

Now the matters proper to that Court, can generally be manifested by no better an example then by those for which a man is Esloinable at Common Law (upon duty of appearance, however that is made now a cause of practice also, and Esloyns are of course, for the whole Law is perverted) whereas now men are tossed from Common Law to Chancery, and then to Common Law again, and no end of Suit, and the charges so great, and issue so uncertain, that Free-Quarter was not more ruining then seeking right; for who can prefer a Bill under three pounds? and then for a Copy, the Defendant he must pay eight pence a sheet, and six pence thereof goes to the so called Six Clerks for taking out the Bill, which are places valued at about two, some say six thousand pounds a year; and if he can write, he sets his name to it; examine it he should; but it is not beleaved any one of them looks on one sheet of a thousand; and if he did, were it worth *ob.* to read it, if but two pence to write it? Take a Copy from the Plaintiff you cannot, though he would so favour you; you cannot put in your Answer till that due be paid.

After the Answer, cometh an Injunction that must be moved for; there is ten, if not twenty, thirty, fourty shillings oft, three pounds in eminent Cases, and to eminent men, that is, one great in power, as in Offices of Honor, or highly favoured: This Injunction comes to eighteen shillings; why not for one shilling all of course? I have seen Orders made by those honorable men now sitting tending to it; but By-practizers hear they are detrimental to private profit, and so the Orders are abroad to catch birds to the lure. You may now sue at a better rate, the Court hath reformed; but come to try, and you must pay as before.

These Six Clerks are wholly needless; the Register alone can do the work; but particular Judges, Keepers, &c. must not make these orders in any Court, they will be overballanced, or may be; for generally they have been.

It must be enacted into a Law, That the Subject may require it as his due, or complain, and have, not only redrefs, but satisfaction; References to the pretended Masters are worse, as more dilatory, but ought not to be so expensive, by reason the Master ought to take but half a Crown.

Now I like that Master best that will clearly say, I have viewed all, and see the right, and will report it, you see my great trouble and pains, you know my due is but two shillings six pence, I will do you right; for my recompence I leave it to you as you are a Gentleman.

Too little wages is a wrong and a snare to any servant, much more a publick one, and most to a judicial one, or instrumental thereto; all ears hear complaints; but I who cannot accuse, will not charge, though I may beleive there is some fire where there is so much smoak.

I will reckon up no more of the Six Clerks tricks to the perplexity of the practicing Clerk, and detriment of the Clyent; this alone is enough.

Nor will I alledge ought more for the Court, then that old Rule of the Learned, which

which none but the Learned can understand ; There is no remedy in the Chancery for what there is no remedy at Common Law. But now, for poor people not worth ten pounds in the world, quiet persons, to be sued by contentious knaves, how shall they bear the charge ? for though that the Subject Defendant is (contrary to the express rule of Law) admitted of course to take out a *Dedimus*, whereby their journey to *London* is saved, yet when they come but to take out the Bill at eight pence *per sheet*, before they can take a *Dedimus*, and next pay after the rate of eight pence a sheet again for writing the Bill in the *Dedimus*, which alone is the evident great gain of the practizing Clerk, half the estate of the party is gone.

O the intolerable oppression that is amongst Christians ! I fear all the Turks and Heathens in the world will not own so much ; I admire not, if any height of wickedness be objected to a Turk, his detestation of it is expressed thus (Do you think me to be a Christian ?)

The sharking of the Subject by feigned recoveries, and by the great ado to release womens estates, at such chargeable rates, only to maintain a company of idle bellies, and nourish corrupt dependencies, is of a like strain.

And though the Verdict by twelve men be accounted the chief flower, or one of the chiefest in the Garland of *Englands Liberties* ; yet I must say the baseness of men is such, that it is one of the most destructive ; for there is no conscience of an oath with the most ; and though it be visible, there is no due punishment.

Gentlemen, you that are at the Stern, whom God hath lifted up in the height of his power, and placed in seats of Eminency, do not trifle away your precious time, let speedy care be taken to settle this poor distracted Nation ; look not to your own works, and let the Lords lie still ; there appeared in you a strong dependance upon God, give not wicked men cause to blaspheme ; Rowze up your selves, and consider God hath a controversie with the Nation, and will not be appeased with all Offerings, except Justice and Righteousness be done.

Let the Complaints of the poor, afflicted, distressed come to your ears, who have great wrongs, injuries, and oppressions, and none to relieve them.

Yea, let the cryes of quiet peaceable men come to your ears, who are oppressed only because not willing to return evil for evil, rayling for rayling, stroak for stroak, action for action :

To sue, is to perplex their minds, ruin their estates, if they have it, and bring them at least to a wanting condition, who lived well ; not to sue, to be sued and forced to compound at the legal Theeves Will.

If poor, the Law is chargeable, equity unreasonable, and get a Lord Chief Justice (Warrant so called) Order of Reference, it is derided, not obeyed, after much expectation, loss of time, and some expence by the poor Sutor.

You are on earth in Gods place, and must to him give an account ; let not your eyes sleep till these works of Righteousness be settled.

There is great complaint of Inns, Alehouses, Taverns, &c. encreasing under your Regiment ; for the Lords sake look speedily about you, let not your Officers, as the Kings, set your honor to sale for the increase of their Fees ; you are yet in a slippery place, the promises and engagements upon you are great, and the expectations of the people high ; and those most considerable of your own party, are the highest ; their spirits breath after just Liberty, they see how you toil and tumble all the Rubbish of the Government of the world, to find fit stones for your building ; Truly, they dare say, among all the Christian Princes, practised Rules, Edicts, Orders, Statutes, Laws, &c. you cannot find materials enough to lay one step to the Throne of pure Justice, in the supremacy of power ; and they therefore much fear lest you should stumble at the same stone of offence with them, and place the excellency of your eminency in power to do, rather then doing Justice ; and when you get a little strength, to stand on your selves, to think, and by power make good, you are as they accountable to none but God ; there is no clearness in the walkings and actings of men, because yours are not so.

But most will hope as they pray, for better things ; and although they knowing the great burthens which are upon your shoulders, cannot desire so much as some do, neither will they, nor dare they (as others) think, much less say (most likely to render your actions odious) that you seek nothing but your selves, and because

cause you do not all that is desired, therefore cry out, you fit to do nothing.

No, all may see you have done great things; but it is desired, that some things of conceived necessity for your establishment be speedily ordered, until with the whole they may be in due time established or settled.

As first for the breeding up of all youth, that all Schools be supplyed with able, honest, and religious School-masters, all according to one form and rule settled by the Supream Magistrate.

And so the Universities, where the youth are yet rather poysoned then profited, and though the humerous conceit of Caps and Capping, and such like be justly waved, that such a decency be ordered in the habits of youths, as may not adapt the mind to licentiousnes (many wise men placing much in things of that nature) and to that end that all youths habits (of both sexes) at least may be ordered throughout the whole Nation, but especially apprentices and servants of all sorts.

So as at least to distinguishe, not shame; that of shame only affronting, not reclaiming; and for all servants to be admitted their services by Testimonial under a penalty to the Master or Dame; their wages to be set by the Magistrate; or some appointed universality and absolute conformity in these even to unity may be pressed without just scruple of conscience.

For to speak once for all, to make acts of common reason, intendment, and benefit for particular places by them in supremacy of power, because by them asked, and not by others, is exceeding selfish, which who ever hath purchased out a particular act can easily resent.

Therefore it is justly desired such things to be generally the same; For prohibiting of new Inns, Taverns, &c. and ousting those erected within seven or ten years, unless allowed by your Commissioners, and upon due and set cause to disable the remainder, and allow others, or fine to some purpose, as receiving any to tipple on the Lords Day, or dayes of publike either prayer or humiliation.

And that all things may hold a proportion, that all Offices Honorary, fiduciary, or profitable be so distributed, that the work intended may be done, or the neglecters punished; and that such as are faithful, may know certainly to whom to make their addresses; for many errors are seen and felt, and the State is sensible of them in part, as by the careful Orders issued out from the Right Honorable the Council of State appears.

But how to execute them, and not be caught in the witty springes of our present Cabalistical Law, no Justice of Peace can determine; and generally the more knowing and able, the more wary, at least in opening of the fruitles, or rather destructively fruitful niceties past, whereby the many are cooled to action.

For if they apprehend men dangerous, That live high, and yet can give no account how they come by it; what should they do? To imprison for no cause visible, is hard to some; not to do it, destructive with others; to prison in the Gaole, chargeable; and the place having no labor to busie body or mind, fatall; in Bridewell, shameful; and generally work they will not, and all this from the want of due Law.

Next, our Lawyers are eminently favourers of nicety of Law, and open it to the ruine of publick safety; for from an opinion that Lead is parcel of the free-hold of the Church, to rob all Churches so called, is so frequent, that it is feared they will soon come to pull down houses: No, saith the Learned, sue him, and he hath nought to recompence the same; so there must be visible actuall force with Guns, &c. to evidence a forcible detainer, or the indictment lies not, whereby possessions are kept oft times ten years together, many seven; sue they dare not, the Law is so nice, dubious and chargeable; this is destroying property in honest *Englis*; for cutting up young Timber, felling young stands, underwood, and the like, with many other wrongs, no law, no remedy evident or practised.

Alter but the Law of hanging for Felony, and this and a thousand things will the learned make Felony streight, if you give but two-fold restitution or servitude for a set time to be by you appointed.

But especially look to give speedier Law in the proper places, to at least the poor,

or

or small matters ; it is necessary to Commissionate some for the speciall Comitties, and that to determine all suits both in Law and equity ; the want of this is the main root of growing poverty ; and that upon Petition, without formalities of Bill, and Answer, Declaration and Plea ; give a stop to cursory Writs of Error, and regulate executions ; for under Sheriffs and their Officers have need of it, if any.

I love the Reason of our Laws, and am as much against Tyranny, or pure Arbitrary Government, as any man ; I honor the learned and upright Lawyer, and would have virtue, learning, yea and service in all due Offices should be regarded and rewarded ; I allow the necessary dependances of inferiours in all ranks upon the supream or absolute powers respectively ; it is but the unnecessary, fruitless, or destructive interests that are opposed, which every just man will stand for both with life and estate.

And by you, Right Honorable, in your prosecutions thereof, let no private respect take you off ; it is not only reason, but necessity calls to you for it ; therefore on in the excellency of strength ; fear not a clash with any corrupt interests whatsoever ; only what is just, let it be done justly ; it is the eminencie of Virtue alone can make your enemies hearts yours, though power may conquer their persons.

By this time it is time to winde up my Clue of History, wherein I profess in the presence of God, I have to the utmost of my skill and knowledge, waved all bitterness, and what ever might justly give occasion of offence.

I yet know some will be taken by men of all tempers ; I, nor no man that will speak truths in such a season of interests, can expect to please all, if it be hardly possible at any time ; I shall as God shall enable me, go on (the assistance of whose gracious Spirit I humbly crave) and hold forth what the Law of pure reason, agreeable to the divine word, hath established to be the Rule for the exercise of Justice and of Righteousnes among Christians.

But some will expect, that I should speak one word to our so much pleaded boundaries to Prerogative and Rule of Priviledge, *Magna Charta*, so called, and the Petition of Right, more then what hath been said. I suppose needless to shew that they respectively in their seasons were but the beginnings of that freedome which the Subjects of those times breathed after ; they are to us, or were before these divisions brake out, but the reducing, as I may say, of speculative or notional Liberty into a way of practicall or real Freedome ; for what was before only in the breast of the Judge, was now in English letters made obvious to each mans sense, so that they after pleaded that Letter against any contrary walkings, whether in the King or his Officers.

So that *Magna Charta* is not pleaded as the utmost due of the English Subject, nor the Petition of Right, but as those things which are so essentiaill in the generality to any Nation, that even the Kings must afford them, or they are not just.

And the Rulers must act accordingly, or they are betrayers of Trust.

And if it be impartially disussed, it will appear that the private interest of Princes, or the power intrusted for publick benefit abused for self-ends, hath been the ground of the principal opposition to Princes ; for where hath the excess of power, or stretching the Law for publick benefit, or honor of the Nation, or against publick visible offenders been impugned ? no, the lives of many Citizens, and the confiscation of their estates, not to speak of taxes, or restraint of Liberty, have been by the generality praised and allowed, though some prudent one might Stoically out of the fore-light of mis-improving these presidents by evill men disallow such Liberty.

If a free-spirited understanding Englishman look upon the first Chapter of *Magna Charta*, unless enforced through necessity to make use of any shaft to wound an Adversary, yea, though it flies in his own face and wounds him, what will he say to it ? for after the freedome granted to the so called Church, the Preface or Assumption on the Kings part, is, That he having God before his eyes, for the salvation of his own soul, and the souls of his Predecessors and Successors, of his own free will did give and grant, &c. the Liberties following to be holden of him, his Heirs and Successors, &c.

And

And these Liberties are there called Franchises, which intimates the Kings gave them the freedoms there set down now, who before had none; and let any uninterested man look upon them, and he will see they indeed hold a reason of policy, but still subservient to the first settlement of the Bastard *William*; there are many notable just things in it; and surely such as by which the people were judged before the Charter granted; but the people not having ought assured, and before the power of the King, the interest of Nobles, the corruption of Judges, other matters rendering the Law then wholly uncertain, they sought this to clear up and assure their right, as far as might be; for Justice ought to be like as the Elements are by the first intention, wholly free.

Therefore the true understanding wise man saith, That he inforces not *Magna Charta* as the boundary to *English Laws*, or just Freedom, or Christian Liberty, but as a Catalogue of such immunities as were granted by the Kings to the Subjects formerly, according to the then light the Nation had to ask, and power to enforce; for so they were pleaded by the Grantor, many of which are now wholly ceased by time, others have been altered, some enlarged by subsequent judgements so called, and Statutes; and it is evident, that the *English* now long and thirst after a rational sealed Law in all the parts in the whole body, taking the Law of God for the Rule, as the Charter-Grantor did, though the face of man was the visible Engine to draw the pleasant streams of Liberty out of the Ocean of Royal Power; and although that succeeding Princes did never keep the Law wholly, yet it was alwayes evident, that a noble Prince that sought not himself so much as the glory of the Nation, the Acts of such a one were seldom, if at all questioned: So that to give satisfaction according to the deep and often reiterated Engagements of the Nation, it is requisite that some selected, impartial, honest, understanding, Religious Patriots be set apart as a Committee wholly to attend the collecting of a body of Law, out of all Laws, making Gods Word at least generally, or the Moral Judicial, that is, that which in point of Reason is equal and just to the *Samaritan* or *Egyptian* as to the *Jew*, to whom yet an *Hebrew* was an abomination; Now it is worthy serious consideration who to employ in this work; to employ Lawyers, is to give no satisfaction to the people, jealous of these men whose interest depends so specially thereon; not to use them, is to stir up the prime men of parts, and of vast revenues to a contest of great importance, and some think not of evident necessity; for there are many wise, just, and outwardly religious amongst them; out of *Englands* Law-Books its desired it should come, the head Rule of Gods Word, and Truth preserved still in the eminency of Power, and then let the Rule of just and good be by such of them as you shall appoint, and such others as you shall chuse to commissionate with them, drawn out of those deep fountains of Wisdom (then which none are more excellent generally, nor more divinely rational) and laid open to the view of each one to judge.

I shal give you but one example, we all agree that the civil Law here reigned originally, and by it the next of kin, whether of fathers side or mothers to whom the inheritance did by Law descend, was Guardian of the Infant. The Law of *England* now is, the next of kin to whom the inheritance cannot descend, is Guardian; the reason of the Civil Law was, because alliance of blood was the bond of Love, and who would take greater care? but this Law of Nature was found to be most unnatural; many by accidental passions, being corrupted for pride, covetise or envy sake, brake the bonds of Nature; and, for the inheritance sake became the murderers, or instrumental to the murder, death or captivity of such infants, thereby to keep the estate for ever, or gain to themselves the estate and inheritance, saying, this is the heir, let us kill him, and the Inheritance shall be ours; so that it is evident, Supremacy of Reason bare sway, but the reason is founded upon the divine Rule; but look at other cases, which are divers, and the reason divers, and yet all hold force in Law, and that for good reason sake.

As first, The Law gives in some, and most places, all the Land to the eldest; and the reason is, because he is thereby enabled to give greater assistance to the King in his wars with horse of service, as *William* the Bastard plotted.

In *Kent*, there the land is divisible equally among all, because all stand in equal relation to the father: and where the Custome is, its Law at this day.

A third rule is *Borough English*; there the younger son had all the Land, as least able

to maintain himself; there were no great evils found in these, & therefore these all stand; but its believed by most, that were a double portion given to the eldest and no otherwise, it might be the ground of a better settlement then this Nation ever had, who it is agreed did never yet submit to that Law. It cannot be denied, but that it will take off much from the vastness of estate, which is now oftentimes for many generations continued in the stock of noble Ancestors; but tis answered, That it will keep from the Gallows, and other places as infamous and more miserable, many noble and gallant Sprouts and Syences of Royal stocks, who (having (as it oft falls out) more active and ingenious spirits then the Elder brother, and) brought up by the indulgent Parent, according to the rank and quality of his father, he dead, and either none, or a small portion no way equal to his breeding, but infinitely short of his birth, as he calls it, or of his spirit left him, he being before fired with ambition, is now madded with envy, and in a kinde of desperation, puts himself upon looseness and villanies to support his indigency.

This Law hath therefore much need to be seriously considered, as also that concerning Estate in Tayl and Feoffments upon condition.

Tis agreed, none will be more able then the religious Lawyer in this part; but as to the settling of Courts, Fines, Officers Fees, Times of Trial, Proces, Execution, and the like, its conceived wholly unfit to have Judge or Lawyer impowered, if holding places of profit actually, or practising in any Court under a Fee; for the Nation complains not so much of the Law of property and right and wrong, as in the discipline or execution of the Law; its found to be corrupt interest that troubles both Church so called and Commonwealth; therefore in this let Lawyers object, but others determine, and that according to a Rule of righteousness, namely for Justice sake, not to maintain interest, as hitherto the puny Clerks and unfavored Lawyer, and young Attorney, and heretofore some puny judges would be content with Reformation, for they could not be worsed by the bargain; No, tis those Officers that have places from four or five hundred, to ten or twenty thousand *per annum*, that are loth to be drawn to the Standard of Justice: Tis this and the like casts odiums upon just things under the name of Levelling, destroyers of property, despisers of Governments, haters of Order, projectors for Anarchy, enemies to *Cesar*, that is, the Supream Magistrate; we have seen, and most do believe, that many no way affecting Reformation, have held forth just things only to deceive and delude, and lull the State asleep, untill they were fit for their design. But these also admire that the State do not these just things, to take away the colour of such mens aspersions, and mutinous clamorous, and hinder others from being drawn into such Toyls by too easie credulity, while they after renewed complaints finde no amendments; they hear and listen day after day, and moneth after moneth, but there's no end of their expectation; God hath changed, and changed, and changed again, but their bondage is they say the same.

Tis most true, tis not possible to please every pallat, especially when each pallat hath most visibly a disgust; we are fain into many pieces; God hath taken us, and dashed us one against another; yea now the Evil is come to that pass, that the wound of carnality is most evident in the Envyings of Professors: O what bitter enmity among those call themselves the people of God! and though Discipline be pretended, its evident the root is Government, the high-gate of Preferment, eminency of Power, multitudes of followers, and the like. Brethren, is this of Christ? Is this according to his Rule? He that will rule, let him be servant to all.

I cannot but apply to such heady ones, that of *Jesus* to *Paul* without cause, to you with cause; *The knowledge of the world hath beguiled you*; You deceive your selves and others, while you contemn all men but your selves; and all judgement that agrees not with your opinions. Where is the Image of God? Look upon the Magistrate, by what names or titles so ever distinguished, they execute not the judgement of God, but of themselves; they rule to satisfie their lust; they glory in outward power, riches, honor, and the like; the great men, both those that are mighty through wisdom, as the learned Lawyer, Phisitian, Divine; mighty in strength, as the Commander in war, Military Power; or the Magistrate from the highest Judge to the lowest Constable, who are cloathed with civil power,

all

all as the Supream in Trust do lead, follow the dance of eying the splendors and glories of the world ; and can we think that the multitude will not follow ?

O all you mighty men, What hath made you thus haste to destruction ? What was it that by degrees made possible, what confidently none of you could once think on, the executing of a King in the chief City of his Realm ? what made you seek a change ? and what prepared the way to the Judgement which God had appointed ? was it not Self-seeking ? was it not raigning for Self ? was it not Oppression in Justice ? was it not altering the end of the Law, more then the Law it self, though that was laid to his charge, as fittest to draw the people to a sensible interest ?

Those that came in place after, what was it rendred them obnoxious to change ? was it not driving on the same trade ? and most assuredly it will in Gods Inquisition for righteousness and Judgement, ruine all that shall tread the same path ; you cannot wholly ruine the native Liberty.

I avow to have after a total expulsion of the Kings Power, and settling an other by your onely visible Power, submitted to the Engangement, to be true and faithful to the Commonwealth of *England*, &c. I by this acknowledge my self bound in my Place and Station to be actively to you, untill as fully subdued, while at liberty ; but if under the Sword of your Adversary, I must submit unto the force, and not act against them, nor you ; this the Law of Nature teaches, the Law of best and Supream Reason ; further you cannot expect, no nor your enemy, unless you will be Tyrants ; and this either of you may require. I allow not of seditious words, writings, or deeds. I onely say, Give the liberty you would take ; sure none but evil Magistrates ever would disallow a liberty to complain ; some say tis all that is left them : But I shall desist from such enlargements, and speak onely upon some few matters arising in the Verge of my trust, I am bound by a necessity to declare the evils of them.

First, Concerning the Tax for the Army ; It hath, as to its great and unjust inequality been long complained of, for some paid but two pence *per pound* ; that is the rate came to two pence *per pound* in those parts, and they gave in but half value of their lands, as twenty : True value was rated at ten ; and no more, if so much ; and the Towns adjacent were at full value, one shilling two pence *per pound* : yea, some in other places one shilling ten pence ; so that in the highest rates to the E. of *Manchester*, *British Army*, *Newark*, the *Garrisons*, &c. the poor owner, and some rich ones did freely offer their whole Revenues to discharge Taxes. This burthen was long laboured against ; after this comes an *Act* for an equal pound rate ; this by them who had good bargains was opposed and delayed ; so that the Armies necessities enforced a return to the old way of error ; Some just men renew this work more rigorously, and an *Act* comes down for six months, beginning at 25. of *Decem*. last ; the *Act* comes so late that its not possible to act towards the first three moneths ; and that there might not be such delayes and evils as had falle out upon the former three months, which gave no power to the Commissioners to act otherwise then by a pound rate ; so that many feared Pre-munires ; this gave such a power in case of not being able to compas the work in due time, to return back again. The busines of the second three months was not thought fit to be put on foot till the first three moneths were ended, when the time comes, the old Opposers are the new Opposers, and plead several pleas, which will enlighten much to the truth of what is before Historized. The main objections were three or four ; first, It was Levelling, and that it was as just to reduce all mens estates to an equality, as the rates after so long continuance ; this a grave and wise man otherwise, strenuously asserted. The second was, It was an obtruction to the service of the States ; for alteration of *Customey Rates* would be long in settling, & the monies would not come in, and then the Souldier would return to free-quarter ; and the next, The Garrison of *Lis* were earnest not to alter, fearing, as they said, That they that took free-quarter, when it was not due, and more then was due, would out-do Reason if really behind. The last was, when we had done what we could, we could not make a truly perfect Rate : There was a fourth, but little to the purpose ; and that was, we knew not what nor how to rate, and so we might over-rate as well as under-rate, and for that we had no power. To the first it was answere, That a rule of Justice was desired, not equalising estates, but equal rating of them, the best way to quiet spirits from thoughts of unjust Levelling. To the second, That it obstructed not the service to alter the rates from evil to good ; the souldier should have his money, and would but each one lend their helping hand, as

soon as in the old way, and to avoid raising more, they would raise less, and then rate a new, as the Act ordered; but if obstructing Service would bear a rate absolutely contrary to an Act before, that reason would allow a little over-rating now; and the rather because it should truly ease the next Assessment, the Accompter would appear, and no evil done. To the third, it was said, That the evil unjust rate had continued seven years, and no remedy, as unjust as at first, and must be so for ever; for the rule was to rate as formerly.

This was now provided for, and what was now pleaded, That the Parliament did not intend any alteration, for alteration could not be without obstruction: Thus Self makes use of all weapons for her advantage; and were it possible to trust men in chief places not so selfish, or that those in Supremacy were so clear that right might be expected, we should soon see an alteration.

The next thing which I hold my self bound to give notice to the Nation of, is, The Assizes for *Norfolk* were according to evil Custome, if there be so much in it, kept at *Thetford* on the brink of the River parting *Norfolk & Suffolk*; the use arising from the High-Sheriffs heretofore serving for both Counties, i having no prison fit to receive the multitude of prisoners in *Norwich* Castle, being as per Calender 144. The civil part was there only determined, and not the criminal. Now I shal omit to speak of the abundance of forfeitures by this means, though falling much upon the poor, it helps forward the necessity of Levellers in the grossest acceptation, by reducing them to absolute beggary; I shall onely speak of the triall of the Gaol, which will hint matters of some concernment. First, there was a Commission of *Oyer and Terminer*; next, a Commission of the Peace; These Commissions are not settled by Act of Parliament in the County, but are a part of Prerogative, and grantable at pleasure of the Supream Majestie. Now there were many Prisoners which were bound over to the next Gaol-Delivery; these the learned in the Law upon mature deliberation, and after great advise-ment, resolve they cannot try: consider the reasons which I must own Legally, of great weight, but hear them; by the Commission of *Oyer and Ter.* they could not be heard, for the Recognizance was onely at Gaol-delivery, therefore they could not be called by the Commission of the Peace; they could not try them, for the Sessions of the Peace had before referred them to the trial of a Superior Judge (of course) for difficulty of the matter: but if was agreed that had a Commission of Gaol-delivery come, the same men without a Superior Judge, or more skill or knowledge in the Law then they had before, would have tried them. Is not Form the Idol of the world? I appeal to the Supream power for the priviledg of the Nation, and beseech them that the due rights of a Free Nation may be established in settled Judicatories in the Nation. Here also fell out another Quare at this great Sessions, namely, what to do in case of an Under-Sheriff, who should execute his Office beyond his year; contrary to the Statute we found this. The High-Sheriff of the County (as usually before, to the great prejudice of the people of the Nation under the late King) did make a bargain with an Attorney, to be, or find one to be for him, such a one as he would undertake for his Under-Sheriff. This man contracts with the Kings Sheriff accordingly, and himself and his son (a young boy, as the Justices upon view judged him of about eighteen years of age) execute the Office, both at the last Assizes and this Sessions, and the intervals, not having taken any Oath; it was demanded of the boy, who was Under-Sheriff? he an-swered, his father, but his name was used; he was tried by the Justices to read a precept, he could not do it; so for double disability, he was disallowed by the generality of the Justices; by this practise if the Father were Under-Sheriff, he lost two hundred pound by the Statute for this year, and two hundred pound more for a year before; for it is said he hath served now three years, and I beleive unsworn all the time, if due inquiry were made.

Next, the son forfeits 40. pound for executing without Oath, yea though unfit; but notwithstanding all this, two Justices of the Peace present at the debate, do the next day swear this Boy, thereby sure intending to intricate the business, and give the Father leave to plead against his Forfeiture of 200. pound, or question for executing the Office unsworne.

I say no more, but I think they deserve a Fine above his, besides forfeiture of their Trusts, and the rather because the mans integrity, and so fitnes for the Office, is as much questioned as any mans in *Norfolk*. Gent. To sue for this in the Travailes, Ex-penses, Delays, Tortures of the Law, who will? You

You are the Fathers of the Family, if you please to take this notice according to your Trusts who are in the places of Eminency and Supream Power in the Nation, from a son, a brother, a Citizen of the Commonwealth, do; if not, I have satisfied my Conscience, the evil lies at your door, if you think as they who have gone before you have done, to salve all with The Law is open, 'Tis begging the question:

We say, the door was never so fast shut as now, either in the settled Law Courts in Ordinary, or new ones of Committees; for, though the doors be open, that is, there is easie beginning suits, that is, it is easie to complain; yet the journey is great from the remoteness of places; and in Committees 'tis so difficult to get them together; in the other Courts there is so much busines, that there are so many obstructions to right, especially of poor men, or quiet spirits; and especially, the men of Law are so favoured, that there is a dead heart in all men to seek Reformation. Remedy this, and you will finde complainers enow.

But if a great man now be complained of for just things, as have been offered to be avowed upon Oath, yet rather then stand the shock of a suit, the wife mans Council in Ecclesiastes is the poor mans comfort, *Go not to suit With him that is too mighty for thee*; compound with him is the way, though he requires all thy substance as too little to satisfie his wronged honour, brought into question, such a one as he scandalized, though all his friends know the truth of the case, how wisely ever carried, that is legally, avoiding the reach of the practical (Law so called.)

I know no truly wise and prudent man desires a measure exactly just, that is, such as against which no objection will lie; no surely, if there be such bad Christians, there will be evil men; what is desired, is not only possible, but feasible, were there but just endeavours after it; were not the diversions so visible, it were tolerable; but when its well known, that all eyes are upon you, when all engagements and Artifices which the Religion held forth, or prudence at best suggest, have been not only proffered, but penally enforced, what but a feared conscience will not relent, or a nealed face blush?

Former services do not acquit latter offences; the instances of the elder of the *Horatii, Manlius* and other among the *Romans*, and multitudes of other in other places, evidence.

The greatest and mightiest Princes are subject to the same proportionable changes with their meanest Subjects; and the Subject hath this advantage, he is best able to bear it.

Our evil hath grown from lenity; our remedy must be at least necessary severity; and if you be not guilty, you may use it freely; 'Tis offendors cry out so sternly for mercy; you are now by true interest and obligation, to labour a well grounded peace to this; the occasions of publique disgust must be first taken away. Remember natural and rational Priviledge, the clearing of interested Dependancies; take them away, they are visible and visibly known.

Next, settle such plain and evidently rational Laws and proceedings; as may assure Justice in the end, and that Common and Universal Justice, that as *England* is one, our Law may be one, and that known; this will unite spirits and affections, whereas plurality of parties or interests nourished, they generate and consider advantages, as hath been evident in the traverses of this Nation.

You have seen the standing out of the King against a few just things made at last, that many that would have been granted, would not serve the turn: I profess, it is mere zeal to Justice hath produced this.

I have avoided bitterness to the utmost; My only hope, desire and prayer is for the welfare of the Nation, and the establishing of it upon the firm *basis* of most undeniable verities; I shrink under the opposition Truth is like to find. I know the alterations of Nations come not till Nature as it were almost stifled, labors for life, it must purge or perish. I know where knowledge is greatest, Satan is busiest; here must be great, if not the greatest opposition; what God hath I hope dictated to my spirit, I have held forth to you of this Nation, who are in supream Trust. You know how dangerous a thing it is to alter the frame of Ancient Government; you yet see its easier far to pull down then to build; to you I say, it must be extraordinary Justice and exemplary vertue must stablish you.

The temper of our old English Government in the mixtures of the three main Regiments was in Christian Politicks heretofore held the soundest of all, most just, and so most durable: As for evil Government of Kings, through usurpation of power, the purity of it being destroyed, they did admit and do to this Establishment without King or Lords; yet if the contrary drawings of the Democratique estate, or insatiate interest, as old Writers have objurgated of many equals, tend to the continuance of pressures, either of purse or person, the issue will be dangerous; it's evident the looser knots have been untied by the halter, I mean the Robber, Burgler, &c. but the treble Cord of the Religious, Necessitous (poor which are a multitude, joyning with the pretending Leveller) and Hypocritical Opposer, will know their time, they look for the day of their necessity: There is nothing of Justice or Civil Righteousness in a strict survey more then what meer form produces, or necessity among the many. If there be not a speedy settlement, there must be a dis-settlement; the people are prone to, as well as stirred up to disobedience; did you command never so well, if Subjects shake off the yoke, or loose it but in what or as long as they please, Empire must down.

We are now as it were in the dregs of so called Populacy; the Kings attempted alteration, and alteration was just, but just things must be done justly; and as he suffered for seeking himself, so will others in their day (if the expected one come) mete out to you.

You are compassed about with difficulties every way, God give you eyes to see your way still; we looking at your transactions afar off, have seen God going along with you; Be not deceived, you see it was not in eminency of Justice, Righteousness, Mercy and Truth acted, but held forth; no, we saw your failings, but hope of your integrity; for we saw God evidently changing your Errors into a question of foresight and prudence to your Enemies, so that they beleived that Stratagemicall which was Casual, or rather of providence.

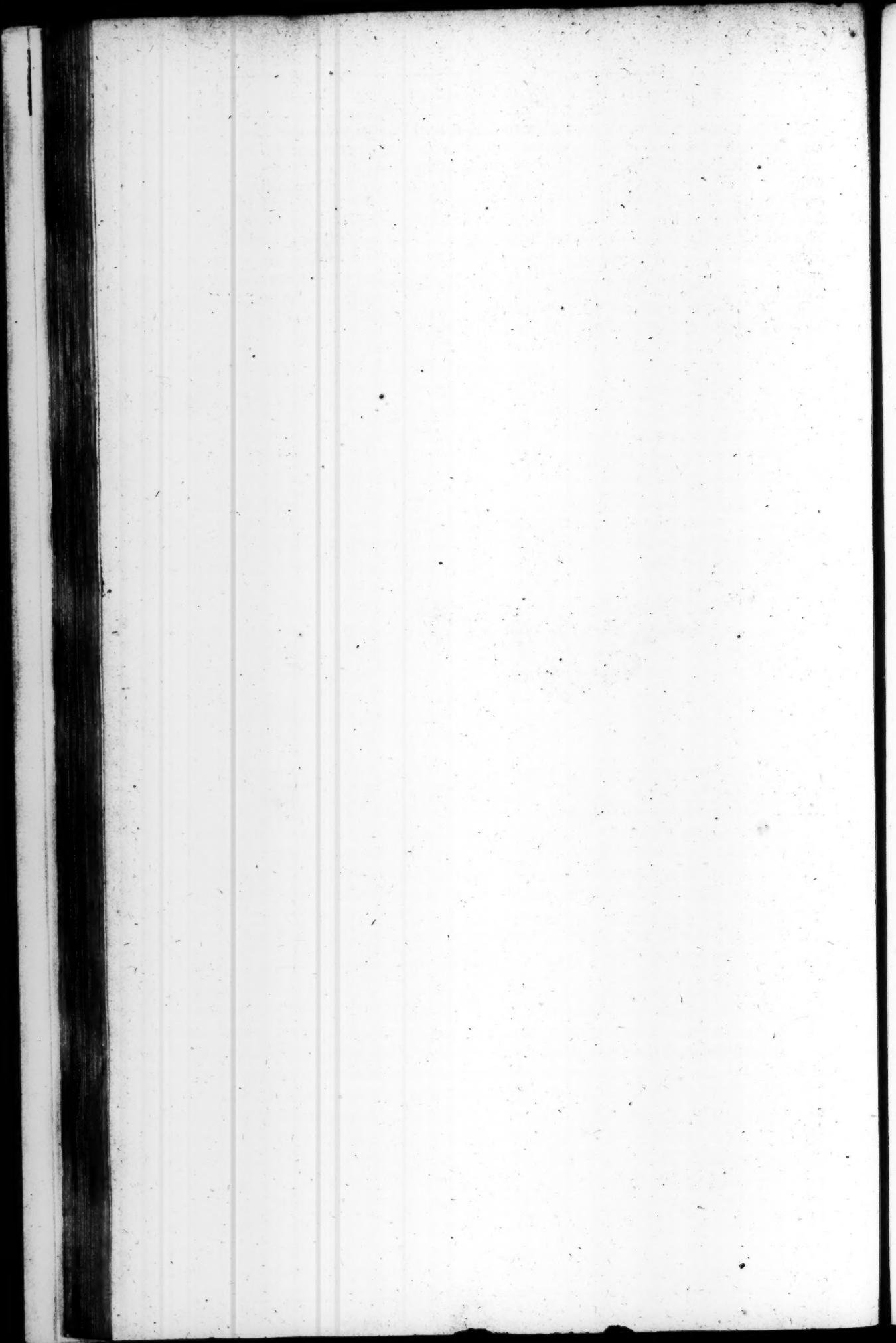
O that all this might but raise a heart in you to serve and trust God; do not only hear Sermons; and for you of other stations, labour Righteousness in your places; your divisions shew your carnality. Learn the nature of the one Covenant made with *Abraham, Isaac and Jacob*, and ratified to us Christians so distinguished from time, as of Faith and Works, that as much of Works is now requisite under the Covenant so called of grace, as was before of Faith under the Covenant of works; contend not so much, whether Magistrate or Congregations be the Keeper of the first Table, as both to give due glory to God, and educate the people faithfully in the knowledge and practice of the Doctrine of the Gospel; and you chiet in power, to see to govern them according to a Rule of Righteousness, upon a sure foundation in all places and callings, which according to the Talent God hath given me, I shall here hold forth to you, and that out of the so called Law of *England*, or usually accepted Law Books of the same with the Word of God, and the approved examples of our most free Progenitors, wherein that I name not the Authors, I have before laid down the reason; I shall only now hint, That its the duty of Magistrates not to regard the person of the man from whom the work comes; grant it but my mite, if it be pure Gold, put it into the Treasury; I will give much light to some, and though others know much more, let them also improve their talent; make use of this till then.

Some say, 'tis the nature of *Englishmen* better to follow in the dark, then go before in the light; give no more occasion to that proverb; I am no enemy to Powers or Authorities. Here is nothing difficult elevated above ordinary frame, so austere that the practice is impossible for a time, or dangerous to many; for it is salutary to ten times so many more; It is the reducing Government in as much as may, and the progresses thereof to the Rule of our Saviour, My yoke is easy, and my burthen light, laying forth Justice in a due proportion betwixt the Duty and the Power; so opening the reason of the Magistrates power, and the Subjects obedience, that the ancient Quarrels of Interests on either side, must be little, if any at all, stinting the many mutterings and murmurings against the State from the default of Officers and Clerks, not of the Judges themselves, which if not done, do all the good you can, and you will be still aspersed and scandalized, and there is some reason; for they and their Clerks are alike; for their care is neither for publike good, nor common honesty; all they look at, is private gain, the great dishonour of a State and Nation.

Now

Now the God of Heaven give me wisdom to hold it forth in such order that it may carry such an evidence of Truth, that all Interests may submit to this one Interest of the Regiment of Christian reason in a Commonwealth ; and what ever is defective, may by your power and industry with the advice of such whom you shall choose, be speedily settled to his glory , and the comfort of this afflicted Nation ; and set as a light upon a hill to be a direction and presdient to all the Nations of the Earths ; That you as faithful workmen may do great things to give free liberty to the word of salvation, and build up the *Jerusalem* of God, and set on the Gates and Barrs, Locks and Bolts, whereby the Congregations of the faithful may be kept pure within themselves by the power of the Word, and free and secure from the violences of Enemies carnal and spiritual; and through the might of the Lord Jesus, may so live here, that we may reign with him in Glory for evermore. *Amen, Amen.*





A N E S S A Y O F Christian Government

Vnder the Regiment of our Lord and
King, the one Immortal, Invisible, Infinite,
Eternal, Universal Prince, the Prince of Peace,

EMMANUEL.



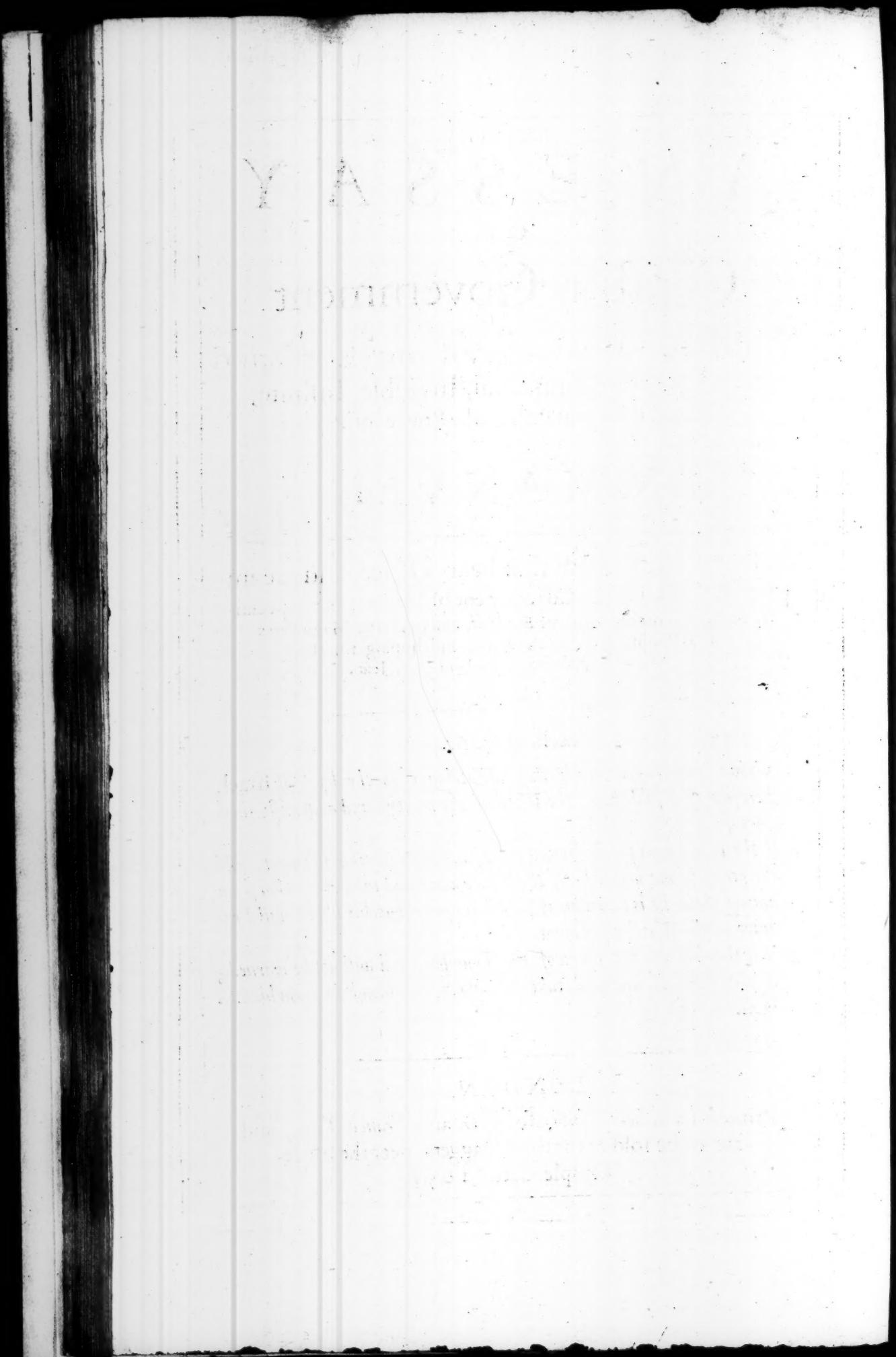
Presented to all them that bear Office, and are im-
powred by God in the Government of Nations, but especial-
ly to the Commonwealth of *England*, and to all the Magistrates
and People therein, expecting and hoping for the
Glorious Appearing of our Lord Christ Jesus.

Ezech. 33.7. 6.4.

7. *O Son of man, I have made thee a Watchman to the house of Israel, therefore thou shalt hear the Word at my mouth, and admonish them thereof.*
6. *If the Watchman see the Sword come, and blow not the Trumpet, and the people be not warned; if the Sword come and take any person from among them, he is taken away for his iniquity, but his blood will I require at the Watchmans hand.*
4. *He that heareth the sound of the Trumpet, and will not be warned; if the Sword come and take him away, his blood is upon his own head.*

LO N D O N ,

Printed by Robert White, for T. G. and Francis Tyton, and
are to be sold at the three Daggers neer the Inner-
Temple-Gate. 1651.





To the English Reader.

READER,

Whoever thou art, of what ever Calling or condition, know, God calls thee by his Judgements to a serious consideration of thy duty ; thy duty is towards him, and those to whom he hath given power over thee. They hold forth desires of settling the State, and that both in Religious and Civil respects sincerely. We all agree all out of order ; that which naturally draws most men, is present benefit ; this makes some cry out for the old Government, others one wholly new ; others to settle their Condition, would patch and dawb, and joyn iron and clay together : I ask thus, Is the privilege of an Englishman, and old Laws, and carnal Interests above that of Christian, Christs, or Gods Laws, and the inheritance of Eternity ? If so, to them say so , I am silent. To the Christian Englishman I say, I have propounded a Model of Christian Government, I say not perfect, nor according to that perfection which I do, as I conceive, comprehend ; but such as may be constituted to fit by degrees to a more pure settlement. I intend not all should be as here set down; its but an Essay ; I have gone as neer the Original Law of England after the Nation received Christ, as I could ; This, if accepted, must, as in all alterations, destroy many interests, and advantage others.

All that submit in all things to the will of God, will not kick against him in his dealings ; they will say, its the will of God, I submit : How it shall be done, I leave to the great Council of Parliament, beseeching the Almighty to give them

wisdom to govern the people rightly ; we are a stubborn Nation naturally ; where grace polishes, look for assured help ; where wisdom settles, you will finde no resistance. Go on Worthies, God is with you, and good men are not against you ; cheer their hearts, go on to settle, be not alwaies pulling down ; its harder to build then destroy. I know many of you, then much more the people, will think some of these Tenets against priviledge, what, the Magistrate to superadvise private actions ? be not disquieted either to think your care will be too great, or the Subjects Liberty streightned : The opposition is only to evil men in evil things, and that when notorious ; the onely thing you all fear, is Magistrates may abuse their Trusts. To all such I say, the Law is just still, for the man, punish him.

I shall not enlarge but in one word to the Politick man, Sir, I have I confess not stuck so close to the rules as many do, at least of late, but you may see I offer things as I think they may be now received, to fit for better by degrees. To all I say, the intention of my undertaking was onely the peoples good, but especially Gods glory, who knows all our hearts, and knows that I speak truth, to whose guidance I commend your Spirits.

The



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AN ESSAY OF Christian Government.



The first Quære, what is Monarchy and its Divisions?



First. Monarchy in General, or absolute Monarchy, is the Government of one man according to his own Will, without any regulation. So whether he rules justly, or unjustly, hath seemed needless to quære; supposing that the people having simply submitted, what ever he doth is just, though just reason with just men be his Rule.

But here is to be quær'd, whether such absolute subjection binde the parties so subjecting themselves to obedience in things unlawful and evidently destructive to publike good.

To this it is Summarily answered, that they themselves are not bound; for as Nature doth nothing in vain, so neither communities of men, who act together by pure Naturals, that is, look at what they call good, therefore as for preservation of the whole, they agree to be subject, who were free; so for the same reason visible, they may reassume that subjection into native freedom; and this the examples of all Ages, Nations, &c. manifest to be the Law of pure Reason, whether their attempts were successful or no.

But what if bound by an Oath?

To this I say, the Oath must and can work no otherwise (intentionally) if free, then to the general end aforesaid, common safety, and that destroyed, they are loosed; for the Law of Nature, and for Freedom sake, all reason annexes, and must annex such a condition to every such Oath.

But what if the Oath were enforced?

I say, it is absolutely and simply void; all Laws in all Nations in pecuniary contracts, the *Minima hominis*, damn enforced Oathes, then much more in main matters of liberty, though the interest of Princes and great men, under colourable shews and pretensions of peace, and quiet thereby, have caused great Wits, and great Pens to abandon Nations to the lusts of particular men.

This cleared in the absolute Magistrate, it will be more then clear in the limited, that cautioned Freedom, how ever obtained, and by whom, ever must be observed; and though that the best order is a whole Representative to act in enforcing and judging matters of so high concernment;

Yet the declarative act of breach of Trust past by themajor part, execution as with us may be just; though some say not justly done, (that is, in manner and form, I here admit of Form;) But some say, it had in the formal part ample satisfaction, according to the letter of the Law, and so was done justly; for if a force were upon the house, it was by the house; and they not questionable, but either by the whole people, or a new Representative; and this till recalled by a more lawful power, must be just; This was done by Parliament at *Westminster*, the place, and a sufficient number of persons to make a Court in Law there was; and the Law gives no power to inferiots,

to take notice of the jangles of equals, especially in Supremacy of Power ; this in Law, in Conscience they must look to themselves, who did the Act ; if unjust, our conscience is to look to the preservation of just liberties which we have ; and in a due way to gain those which under pretence of Conquest, past, or present, have been gained from us, and by time usurped, which these men have promised who are our Representatives, that is of the whole Kingdom ; for their general and great Engagement is,

First, to do the Nation Right, next to serve the particular places faithfully for which they are chosen, and to see they have no wrongs ;

Now of these Monarchies ; some are Elective, some Hereditary, this alters not the Cause, but may make men more cautious, in case of the Nation, whose Kingdom is constituted by Hereditary succession.

For if strict Order be not held with those Kings, they at last devolve into Tyrannies, that is not only (one) to Rule, but his Rule to be without any Rule not according to the Law of Righteousness, but at Lust, and then there is no way but alteration of the frame of Government in Supremacy.

2. *What is Aristocracie ?*

WHere all the Noble men, or great rich men of such an estate Rule, it is called *Aristocracia*.

3. *What is Oligarchy ?*

WHere a few men of the rich and noble or powerful overn all, it is called *Oligarchie*, and is seldom but a government of few.

4. *What is Democracie, and the ends of all Government ?*

WHere there is equality, and the greatest number Rule, that is called simple Democracie, which ever was a dangerous State, as newly drawn out of confusion.

The next is where the whole body choose never so vile a wretch, he is fit for the place, a Tribune of the people, and his Yea, or No goes as far as Any's.

An other Democracie is settled in several choices, refining the grosser parts by degrees, and by wise limitations, restraining the way of confused meetings, and yet giving just freedoms, and to keep Justice pure, limiting the Electors as well as the Elected, and that not only by restraints of not such estate, or no Vagabond, or that hath been such, no Thief, no out-lawed person, no perjured person, no servant ; but some have Christianly added, cast out of the Church, a common Swearer, Lyer, Tavern-haunter, Prophaner of the Lords Day, a Gamester.

Some now may as well say any one not received into a Church-fellowship.

This yet being the work of the Supream Magistrate, the more warily ordered the State is in reason, constituted the more durable.

By this it is plain, that all subjection was admitted for protection ; and that protection merits, and may require subjection, and subjection protection ; that this power employed against the end, is in Law (that is the radiance or glympse of Divine Reason in man) utterly void, and all of them intend but the same thing, namely publike good, although they seek it divers wayes.

5. *What forms of Politie is best ?*

THis past, I now come to to quere, which of these forms of Politie is the best ? Wherein I cannot be of opinion, that *Aristotle* onely out of affection to his Pupil, raised Monarchy to the top of Excellency ; for why should he not aswell have set his King above the Laws ? but this indeed he did not, resting in a limited Monarchy, wherein the Law was the Kings boundary ; and surely he knew no King limited but in *Greece*, specially in *Lacedemon*, where I take it, he was subject to the *Ephori*, and by them to the Ax, and the Halter, &c.

I find the excellency of a Kingdom above a Commonwealth, rather by not having the evils

Evils of Ambition and quarrels for Supremacy, then the good of Common Justice, Right Laws, and gallant Spirits, begotten and educated.

Tis agreed, a King is more easie to be corrupted, as is, and hath been ever manifested in all ages; and though it was then preferred as more easie to reduce (for few would then stand against publick interests) yet now it being made the Idol of vain men, and the Christian world wholly o're run with vanity, it is hardest to be reclaimed; for things are evidenced to be easie or difficult, as interests are.

Yet Divine Providence hath here blown upon all interests, for they were corrupt: (Oh you that are in power, build not with such hay and stubble still, for surely your work is like to pass the fire.)

But assuredly a Kingdom Hereditary, is far before any other Kingly Government, where the Nation is small, bounds large, and spirits content; for Peace is most durable in that Government. And that will give Riches, and the people shall have ease and plenty, and grow numerous, (for emulation the mother of discord, is restrained at least.)

But then the land will be too scant, and that Nation must fall upon others, or break within her self, or transmit Colonies.

Now *Democracie* must be in War abroad, or else she breeds Feavers in her own bowels.

Yet *Aristocracie* and *Oligarchy* seems worse, as partaking in more selfish interests; but assuredly in all, they are best or worst, as the men Ruling are.

6. Whether the acquests of Kings belong to the State in Case of alteration of Government?

Seing now alterations are incident to States, it may be justly Queried, whether what is gotten by the Prowels of a King, or Marriages, come to the Supreme power Governing, or return back in such Alterations, or the Heir Naturall to enjoy them?

The answer is easie; for all these things rest in the King as King, as they were acquired, whether in an absolute or limited State, they go to his Successor Politick, not Natural, not in the ordinary course of inheritance, but according to the Transition of the Crown, how great Jumps soever it take, and this person dies not; so that it is evident the supreme power hath all the acquests, and rights, whether Warlike, or Civil, as by Marriage, Permutations, Emptions of State, or Mortgages Real, as Cautionary Towns.

So that this Change of Government hath not divested *England* of any Title to ought due to any former Kings as Kings of *England*; whether in *Ireland*, *France*, *Castile*, *Cicily*, *Cyprus*, *Hierusalem*, united Provinces, or else where.

And should Kings come in again, sure they would not hold the intervening settlement of a Republick a Bar; and the Reason is evident, for they have the Supreme power, and are as Capable to give Protection, and enforce Obedience each as other in consideration of Reason; so there is no inconsistencie in the thing.

7. Whether better to be Governed by Laws, or without?

Having seen the Governors, let us see how they are to Govern. I take it that the same reasons against *Arbitrary Government* in a King, will serve for a State; for grant a Choyce of the most excellent men in knowledge, and Justice:

Yet can we say they shall be alwaies such, or those that succeed them? therefore no doubt it is better to be Governed by good Laws, then good men, taking care that those Laws be executed under severe punishments.

8. Whether better to have general, or particular Laws?

Now must come to the hard task of all Polititians, That is, to set the *Medium* of power in Magistrates, wherein it is plain, that to ty a Magistrate (in any Government) supreme or inferior, yet administiring Justice to the very strict letter of the Law, is to have all the safety of the Commonwealth shipt in a Vessel without sails or oars; slip but the letter, and no Magistrate can meddle.

Therefore generals must be the way, but limited they must be, or else your venture is as much on the other side; for to give him no bound, or too much, is to put him into a vessel overladen, and the sail too full, which upon every gust is ready to sink, or be o're turned, or run under water.

Now to pass this *Scylla* and *Charybdis*, is the hard work in the first settlement: That the supreme Magistrate hath his due boundary, and after for him so to dispence to inferior Magistrates, that the equal Temperament in every part may assure the safety of the whole.

England, before the late fatal infusions into King *Charles* his head, of the absolute power due to Princes *Jure Divino*, whereby they were rendred accountable only to God, boasted against all other Nations of the happiness of all these Governments, in a sweet and admirable admixture of power; for they had the freedom of a Commonwealth, the opulency of Aristocracie, the glory of a King.

Yet he so bounded by the Laws, and so watched by the Emulators of his glory, the Nobles, and by the Conservators of our Liberties, the Commons, that it was hard for him to break.

Yet break he did, and that so suddenly, that it was evident the settlement we gloried in, was but as we say, *A last gash to the decaying state of the Bastard William, so called, the Conqueror.*

And now is the time for them to whom God gives the Honor of a Settlement, so to mould and temper Government, that it may be most durable, which is the glory of a State.

Now to do this aright, after the Assurance that nothing be done, how politick or advantageous soever it seems, contrary to the light of Christian Doctrine; I come to the difficulty abovesaid, that is, *What Power is to be committed to the Magistrate, whether Supreme or Inferior, respectively?*

To which I answer generally, That the Magistrate, whoever he be that is intrusted, ought to have more power then its commonly requisite he should improve, that thereby by acts of Grace he may endear or suppress, as occasion shall offer:

The Supreme thereby obliging all parties, as well inferior Magistrates, as other Subjects: the inferior Magistrate to engage the equals (in all but Magistracie) and all the vulgar, and that without punishment from above, or scorn below.

For it is evident there are ever ambitious or insolent Spirits, who if the Magistrate be tyed too straignt, will draw him to the end of his line, and then dare him; I wish from my soul Magistrates were all wise and just, fearing God, and hating Covetize; but in the choyce of these men for interests, it will not be so; therefore I meddle not to prescribe rules, as some do, for a man who prefers private interests, but him that onely and principally fixes himself, and his endeavors upon the advance of Publick and Common good; therefore to them I addres my self, with this Caution;

That the great ruining danger, is, in times of Commotion to be over strict, beyond late presidents, and Examples; for that blows the coals of Sedition, yea sparks to a great flame, especially if publick ruins build private fortunes, so called, or partake with any selfish interest.

They therefore that are in Supream trusts, and would settle, or continue their Governments quiet, must themselves in their places, and whom they empower respectively, with (not onely faithfulness and diligence, but also) wisdom and discreet activity, moderate that power which may be lawful, much more that which is exorbitant, or but to be used against persons exorbitant (that is, violent Rebellious (and that in acts) disturbers of the Peace) for against such, to spare one guilty, is to venture

venture the destruction of a thousand of innocents; *In evident just things settle the power.*

Now I come to the Rules of bounding the inferior Magistrate, wherein I conceive it is principally requisite to add to the general Rules of Law, or head Laws, particular Officers, by which onely it is lawful to act in time of peace, or not imminent danger.

That to this Officer being sworn, or tyed under a set penalty of faithfulness in his Office, the Magistrate send his Warrant, expressing the cause of the Warrant, as now to Constables; and that this Warrant discharges the Officer, and then the complaint is and ought to be against the Magistrate.

For no reason one should be punished for executing his Office by command of his Superior.

Nor is it fit the Magistrate should be too suddenly lyable to Question; therefore it is requisite to have some appointed near hand, to whom the Magistrate in Ordinary, and also the Subject may have recourse, who knowing the Law, may speedily determine; for otherwise the Judge or Magistrate is discouraged on the one side to act, and the Subject on the other side fears his liberty to be infringed, both which must be provided against speedily and certainly.

For it is assuredly meet, That every one not acting Legislatively, but judicially upon Laws set, should be under the jurisdiction and Cognizance of some one or more persons or persons, and to make returns to them of at least all matters doubtful.

And again, That they that act Legislatively should not act judicially, nor be the same persons, (unless in case of visible necessity) least otherwise Justice fail.

As for example, if the Judges of the Common Bench, Common Pleas, and Chequer were Judges in Parliament, could we think the Parliament fit to determine their Errors; lets have the best Laws that could be, Laws would be but dead letters still in themselves.

9. *Whether the Laws ought to be according to the Judicial, or What? and whether a head rule, or not?*

ICome now to that great and old (difference, or) difficulty, what is the boundary to humane Power, or Authority, or Dominion, call it what you will, it is the executive vertue in the Magistrate Supream, in dictating, or giving forth of Laws.

Now I in this shall wave treating of Law, in its variety of objects, and shortly give you this description of it.

It is the Rule of well ordering Societies of men, or many Families of men living together; and aims especially at preserving the poor and weak, against the rich and mighty, &c.

Now it is truth, that many Nations have divers Laws, yea, great variety, and all just; and some Nations have a few Laws, and many unjust; naturally, each one seeks particular good.

But as this grew obnoxious to particular persons or families, they joyned together, and that under agreements, wherein there being still particular respects according to the advantages and disadvantages of the Covenanters, so were the Laws more or less unjust; but oftentimes that which was seen unjust after, was not discovered such at the time of enacting.

Hence some have, to take away all wrangles, fallen upon a Community; some from Community, to Property, still looking to avoid the present evil; yea from hence indeed spring all the Commotions, and hurries of the world, which so Rent and shake people and Nations.

So that there was nothing so highly honored, as the enacting good Laws; I take it to be the Original, at least one of the chief Originals of the *Heroes*, or *Damones*, men Deified. (so God himself stiles Magistrates, because of their Representation of him among men) and all these Law-givers pretended at least to receive them from the gods, or the friends of the gods.

For even to natural men it seemed just, that what wise men had instituted, wise men might alter.

Now if these Laws were only some Prerogatives of the Princes, or Priviledges of great men, which men had sought to usher into the world with such pomp, there might have been a ground for obstruction; but these which were the Laws of well living, the Laws tending to publick quiet, repose, riches, & honor, (custom of living being equal to, if not above nature) were of necessity thus brought in, only by fear of the supposed Gods; yea, also the future Magistrate was by this (superstition, call it so) only kept in awe, not to break forth into exorbitant affections, or decline action, either not to make the Law like the knife of *Delphos* for all purposes, or else for no purpose.

So are men byassed by private respects on the one hand, and loving supremacy of power on the other, that unless there be some overawing decree, some settled boundary, beyond which we must not pass, there is no safety.

Now if it be said, this is indeed true in the cause of natural men, but not so to Christians; Grace perfects nature: I agree, it is truth in some sense, but not in every part; for it is rather true in the future, than any other Tense; for it works here in the flesh not so intensively, but more remisly, yea, sometimes the effectual work of grace seems dead; that this is true, the agreed failings of the Saints evidence.

Yea those in whom the work of Grace was begun sure enough; as witness *David's* Pride, *Murther*, *Adultery*, &c. *Samuels* sufferance of his sons, *Hezekiah*, and all others before Christ.

Peter, the sons of *Zebedee*; *Paul*, *Barnabas* and others; under the Gospel.

So that it is plain we must remember it to be truth in some sort, which was objected against *Aristotles* counselling *Alexander*, (as was pretended) to use the Greeks as friends, and carry himself as their Guide and Conductor; but to use the *Barbarians* (meaning thereby all other Nations) as enemies, and carry himself towards them as Lord and Master.

The reason of their objection was very acute; for say they, there are many Greeks wicked, and many virtuous *Barbarians*.

So that if any *Quere*, whether Laws should be diverse in respect of divers sorts of men, it is shortly answered, Laws are to restrain and punish only evil, whether men or actions.

This being cleared, the next thing is to come to the more close and plain resolving of the question, wherein I cannot urge antiquity; for I wave all Authors more then as illustrative, taking none as Authoritative; the superintendency of the Expurgatorian Classis abroad in forreign Authors, and our *Licentia*, or *Places* at home, making them speak what they list, or as they list who are masters of the Preis; for if so done to some, why not to all? or who can tell to which? and indeed there is no necessity of either ancient or modern testimony, the Almighty wisdom having the same fountain of endowments, graces and abilities as in any age, and the same as plentifully poured out now upon us, however it is improved.

This premised, I then *Quere*, what law is existent among any or all the Nations of the world, like that which is called *Moses Judicial*, holding forth such fit and apt punishments, as are there laid down, carrying with it such a visible reason for it self, agreeable to the Rule of Proportion?

I may say that the law of *England* did own this as its necessary pattern (it is seldom denied) but if any do oppose, or doubt, let them first consider, That no law in *England* was settled (generally at least) until the Pope had come to an obliging power, and that agreed; sure as he aped the Ceremonials, he did engage a conformity in Princes as far as might be to the *Judicials*.

I shall now see the only or main objections against the *Judicials*, which may be reduced, I take it, to three chiefly.

First, they were given to the Jew.

Secondly, they are not, or cannot all be performed by us; for some were only proper to the Jew, some no way fitting this Nation, for they were never received; and there is a necessity of altering laws as vices encrease, and grow more Obnoxious; and also in regard the *Judicials* themselves are not all so clear that it can be said which are all the *Judicials*, by reason of mixtures of Ceremonials with them.

Thirdly,

Thirdly, The Law of Christ is a Law of Love, not Revenge, to pray for enemies, do good to them that hate us, turn the other cheek to him that strikes one, and give the cloke to him that takes the coat, and go two miles with him enforces thee to one.

God assisting, we will endeavor to clear these Heads; and then in consideration of the particular Laws, answer some particular Objections, if any be seen needful.

Now as to the first, That these things were immediately directed by the Almighty wisdom to the few, it is agreed; But what doth this hold forth? Sure only this, That the few was bound by them, God having commanded them to that Nation, that God required not obedience from the other Nations to whom he had given no command, but that any other Nation might not use them, it proves not;

But rather that those Laws, as far as holding forth a rule of Justice to them which had no Rule, or a better, where defective, ought by these Nations to whom they were known, to be established, is sure out of controversy, while Legislators have Just and Good for their Rule. To the second, That they cannot be all performed by us, Let us see the hindrances.

First, Some being supposed only proper to the few, if we come to search what those be which we cannot perform, there appear here visibly but the Law concerning the Trials of Adultery, and Virginity; we allow these ought to be inquired into, and satisfaction given to the jealous spirit; but we presume the special Law binds not; That in case of Virginity, being, though natural, yet as it were only proper to that Nation, and that by some extraordinary power of Divinity, giving forth Testimony to his own Law.

The other simply extraordinary, in regard the same water wrought so contrary effects; so that the virtue was evidently not in the water: and if we should search the depth, the seeds, though conceived by of the Adulterer, could work no more then of a husband in the ordinary course of Nature.

There is also some particular Laws of two wives, humbling of Handmaides, with some others.

The next sort of Laws are such as are said hold no proportion with the natural condition of the people of this or other Christian Nations; and therefore the Nations settled others, and never received them.

To this part I answer; That if it never received them, there was no trial, whether agreeable to the Nation or not. Next if tried, how doth this indisposition in Nations generally to the receipt of particular Laws appear? sure it is not by way of Antipathy, so that the Nation fails, dies, or is removed upon receiving of them; truth is, we all agree, Nations may be altered by Laws, as the *Romans* brought from natural savagery to a more moderate temper by *Numa's Laws*; and the *Lacedemonians* by those of *Lysander*; and they may be heightened and debased in spirit, as well as moderated; but all this rests not in the Law, but the executive part or power of it.

Now that force will naturalize Laws, it is plain, why then not Reason? It is evident, Laws are the reins of Reason over the beastial part of man; therefore now to the reasonable man, any just Law is approveable; as to his obedience, he is a Law to himself, and happily gives far less liberty to his particular beast, his appetite, be it to, or in what it will, then it is fit the general Law should hold forth; and this hath just wisdom in it; hereby are the good and wise distinguished from the vain and idle, even by the subjection of natural appetite: from whence it is hereby clear, that to govern a fierce Nation, the same Laws will not serve, as to govern a quiet peaceable one.

But now our Quære must be, whether there be not a just Law in the generality, agreeable to the light of Nature, set down in the Judicial heads of Law, which will agree to govern all Nations by; take two Laws for example, Murder and Theft.

The first is the head-Law of mankind toward his like, the prime end of Magistracy being to preserve life.

The next is goods; Now in this I finde no loose to the Magistrate, but life must be for life; if murder, that is, keing in waite, or as with us malice before hand; in this the Magistrate hath no liberty to ingratiate in refined Reason; it lies upon the Land, if not expiated with the blood of the offender, and so upon the City, and so upon the Army.

But the chief guilt surely lies upon the chief Magistrate, who is the prime in trust executive as to the fact; this sure is, and ought to be death in all Nations.

The like head Rule of common Justice is in the Law of the manslaier at unawares ; and surely of this sort there will be no doubt, nor of the expiation of uncertain murder which ought to be settled rightly by an Oath of Inquisition, &c.

But the great quere will be concerning Theft, which is the matter most, or with the most to be considered, as a groud of controversie.

For the most of Christian Nations have made it death, yet the Judicial maketh it death in no kinde, That punishing life with life, and goods with goods, &c. in the rule of proportionate Justice.

Now this alteration is not without reason as things stand, that is, upon the received principles forementioned out of the seeming contrariety which Christians have gathered out of the Law Judicial, and Apostolical.

For they have gathered, that Christs Kingdom being of brothers, there should be no servants; that is, no slavish servitude, or bondmen, which was the issue of not satisfying what was stollen with the *few*; and upon this presumption, they at last wholly abrogated, as to Theft, the mults of two, three, four, or seven-fold restored for his life, and took away his life; now this being onely practise, cannot determine the Controversie.

Let us then see the Reasons if any be, whereof the most eminent is that of Magisterial Interest, whereby he would wave a limitation, or rule in ordinary, and make himself absolute in every condition.

For Supremacy generally aims at absolute Power in all estates, Royal, or Republical, or mixt, though they maintain their interest diversly, according to evident principles, upon which their foundation stands; this therefore is a Politick rule; but how warranted by Supremacy of Reason, upon the pure principle of common or universal good, or what Rule in the Word, must be examined; in the written Word there is owned nothing as clear; for sure then the controveſie with some one good Magistrate, or Commonwealth or other would be determined, and the interest of Righteousnes would cloud the intereſts of riches, honor, power, &c. This therefore failing, let us see the Reason; the first part whereof is in necessity of altering Laws, according to emergencies; to which it is answered, That Laws in inflicting just penalties may be higher or lower according to emergency; and the rigorous, or exact execution may be justly inforced; but the incompatibility or disproportion of the Law of Death for Theft is, in that all the goods of a Prince are not of equal worth as goods, be they Horses, Kine, Gold, Silver, &c. to the head of a Slave, consider him as man: nay, the Lord touches not mans liberty for goods meerly, if he had wherewith to restore; therefore this Reason will not avail.

But if we consider the Quere a little further, there will appear less reason yet; and that is, that even Christians themselves doubt not, but that would the Magistrate wave his advantages, both to himself, Clerks, Officers, &c. by the death of Felons, and strictly see to the Execution but of restoring two or three fold, Theft would not be the one hundred part so frequent as now it is; for though generally it be truth, that preservation of life is the prime principle of Nature, and he will part with all to save that; Yet the spirits of some men are such, being not polished by divine precept, that they scorn to live but as they have been educated; some will dye rather then labour, and so Thief, or commit any villany.

Now it is by some thought these may be put to death, but these do not put these men to death for Theft, but not having to restore, they imprison them to satisfie by labor, their wrongs; and if they break prison they dye for it; so that death is now inflicted upon them, not only by the equity of the Law Judicial, but universal reason cutting off this disobedient son, rooting out this Moth of the Commonwealth; and there is sure much of Justice in this, for now with Christians to prosecute a Felon (as any other criminous person) will cost a man in expence of time, and Fees, and other charges, as much as would have kept his Family a moneth, which added to his losſ who would prosecute, yet compound the Law forbids, but I intend haste.

The next reason is, the Judiciaſ are ſo mixt with Ceremonials: To which it is answered, that many are clear, ſe them; the other ſearch out how the mixture stands; for if there be a plain Law of distributive Justice, a neceſſary rule for the benefit of Societies, take that; and if there be no corrupt intereſt in it, ſure it will be accepted by wiſe men, though meſſ Politicians may baulk it, as well as enact it, as King Hen. the 8. did in caſe of Marriages.

I am now come to the great head of all, namely that the *Judicials* were a Law of revenge, which now is proper to God, Christians must not fight, war, revenge, &c.

I could with some say I admire the wonderfull goodness, mercy, long-sufferance, patience, &c. of God, who willing to shew the Riches of his mercy, forbears the vessels of wrath fitted for destruction.

Art thou a Christian that objectest against the *Judicials* to elate another Magisterial power then that of the Regiment of the Lord Christ? for though they were given by *Moses*, they were the Dictates of the prime verity: And where O man hast thou such a pattern?

But thou wilt say, We are Christians; and we have no need of Laws?

I answer with *Paul*, If thou beest the Law to thy self, the Law punishes thee not; Rulers are set up for the punishment of evil doers: So laid the Lord to *Cain* in the first two thousand years; And so saith the Spirit to the world in the last two thousand.

But say you, we acknowledge a Law to men, but not Christians; Brethren, be not deceived; remember what *Peter* saith, The unlearned and unstable wrest the Scriptures to their own destruction; the place I pitch upon to clear up the Righteousness of the Law even to Christians, is that of the *1 Tim. 1.* from the 8. to 14. There are multitudes of places hinting the same, I at present know none more pregnant; for thence it is plain, that there were then many controversies stirred by the Christian Jews, or so pretending, concerning the observance of the whole Mosaical Law, whether Ceremonial or Judicial.

Paul had beaten down as much as in him lay, the Ceremonial, shewing it was but the shadow, the body was Christ.

Now concerning the *Judicials* particularly there is no question, but from the following verses, and from other places it is plain what was intended; for in the 9. verse, he sheweth wherefore the Law was made.

First Negatively, not for the Righteous, (the foundation of great errors while misapplied.)

Next Affirmatively, for the lawless and disobedient, ungodly and sinners, unholy and profane; these are general.

Now he comes to particulars, Murderers, Manslayers, Whoremongers, Buggerers, Men-stealers, Liars, Perjured persons, and against all other things contrary to sound Doctrine, &c.

There is an objection against this, viz. these things are Morall.

To which I answer, that if you take Morall for the Law of the ten Commandments, they are not literally there; if you intend Moral for what ever is contained virtually under these heads, the two generals whereof comprehend the whole duty of man to God, and to his brother, all mankind, then the whole Judicial at least must be therein comprised.

If you intend by Moral, what the light of perfect reason holds forth concerning just and good, no man dare say the *Judicials* wanted the height of perfect Reason.

If you look at it as rectified by Evangelical Doctrine, then it is answered, that the primitive error is the cause of our now wandering.

First generally seeing the errors which have flowed by the Church to the Commonwealth, we confusedly judge this to rise from the principle of the *Judicials*, and lay all the pride, covetize, and various interests of Princes, Courts, Judges Fees, and unjust and unnecessary dependancies, Nurses of Heathenish and detestable wickedness, villany and ensnaring dependencies to life and liberty of common Societies as well as particular men upon the Judicial.

Next it is beleaved, that Christians take the *Judicials* proper to them, as to the prototype of the Jew, which might be; but now a clearer light manifesteth higher things, or is so pretended to.

The main particular and worthy consideration is our formation of Christian policy according to the Jewish Model; for we held all Baptized as Circumcised to be Christians.

Now of these, how excellent Christians we have, the Gallows, Gaoles, Houses of Correction for punishment, and all places of vanity, such as almost the Heathen would blush

blush at, Drinking, Dicing, Drabbing, &c. publickly known, manifestly proclaim ; and though no rents to the State, as at *Rome*, for the Stews ; yet to the Statesmen they enhance Farm Rents, &c. for surely, were there no advantageous interests, they would not against common profession be upon so weak reasons as they are, tolerated, while winked at ; yet what is done with these Christians ? lo they are punished, are they not ? Surely no, not one of ten, if one of a hundred ; and this punishment is the sacrificeing for sin ; and this past, they are if it be but commutation, as clear Christians as the best ; and being now become more serviceable to corrupt interests, these spied out the lawful Liberties of better Christians, which the Judicials not affording a whip for,

The Magistrate must be loosed from his restraint rather then not have an honest man punished ; this raised error upon error, and opened this loose to the Christian to seek freedom from an unjust Law ; and to the Magistrate, to seek to punish at lust : But if you see through all the Apostles Writings, they only forbid the sin ; and for punishment, look at the Law in general, which surely they could not intend but of the Judicial.

Now for the Commands of Christ the Lord, and the Precepts of Love, Charity, Patience, forbearance, &c. they are certainly true, and to be obſerved ; and then the Quicke or Objection is, what need of Law ? The Answer to this is as evident as the other, That the purest Congregations, Churches, &c. have had, and ever will have evil men among them, not only hypocrites but open sinners ; The error of the Congregations not ejecting, or Magistrates not punishing, or not due regulating by punishment, rather shews the necessity of Law, then the uselessness of it.

Now grant that the whole Nation were purely Church-Members, of which no visible cause of ejecting or rejecting communion appeared ; yet there would or might arise many debates, differences and controversies, which would require a Magisterial Authority to determine, if but for difficulty ; And surely the Congregations of Christians never so little declining, could not avoid litigations and wranglings ; and there being no word to extirpate the Civil Magistracie, it becomes not Christians to wrangle, much less violently to oppose so approved, so necessary an Ordnance ; That opinion that in the simplicity of the last Age, as in the beginning, the father of the Family shall be King and Priest, hath little warrant ; that hath more, that each Saint shall be so ; and yet in the mean time, as hitherto, ſubject to the powers ; yea, the Heathen ones, for conſcience ſake, of the radiancy or glimpse of the Divinity holden forth in them.

It is truth, pure Christians will not be contentious, ſome meek ſpirits may and will obey the letter of Christ ; and ſure they that do ſo in faith, ſhall not fare the worse for their exact obedience ; but in the mean time, this is no binding rule to us, except the words be ſo intended.

It is truth, the child of God ſeeks not his own, &c. he is wholly taken up with God, &c. ſhall the Magistrate therefore ſee evil againſt him go unpunished ? Again, love and not avengeing wrongs, and praying for enemies in the ſpiritual ſence, may ſtand with the punishing, afflicting, and bringing to judgement the body of the tranſgressor in the literal ; yea, God is thereby glorified ; otherwise how can the peace of good men be preserved againſt the wicked, but miraculously ? which we have no warrant to expect at preſent, and what ſhall be hereafter, as the light manifests it ſelf, the Lord grant we may walk in it, and also up to it ; and that our Laws may be eſtabliſhed, according to a rule of Righteouſneſſe, even according to the wiſdom revealed by God himſelf ; and that all emergent Laws may flow from the ſame fountain, for for every action contingent there is as is agreed no particular Law already ſetled, nor well can be, but the Christian Magistrate ought to provide that not the leaſt wrong or trespass but be righted or puniſhed.

I muſt yet remove one rub, and that is, the Judicials have been our miſgaider hitherto, therefore better any other Law then them ; 'tis the fame that was objected for uſing of formes, whether of prayer or otherwise which the Church of *Rome* uſed (and was partly ſpoken to before particularly), in that all our old errors having ſprung from that root that it is necessary, yea, ſome ſay of neceſſity, to wave that for our rule ſleft we tread the ſame trace of error, that was before our ruine ; and therefore better take our Laws from Turk or Persian, or &c. then from the Judicials.

Now let us examine this, and all will appear vain ; for firſt it is denied, that the obſer-

observing the *Judicials*, yea though as binding as the prototype, was the error of Christians, so as to bring so horrible a defection upon our *Judicatoryes*.

We maintain not (I desire to be rightly understood) That this Nation professing Christianity, is bound to the *Mosaicall Judicials* in the command to the *Jew*.

But assay to manifest that those *Judicials* were not our misguidance. The Decalogue or Ten Commandements we all agree (except in the set day of the Sabbath) to hold forth but even what Natures light determinately approves, whereby it is evident that sin is the same to us as with them, which all the writings of the Apostles manifest.

Now the sin in the head Law being the same, what difference in the branches, either in respect of the severall species of transgression, or manners of punishment.

Now as to these we all agree the error an error, but we must differ concerning the infliction of punishment, which I drive to this head;

That the Law prescribed in the *Judicial* for punishment, holds a due proportion, punishing life with life, goods with goods, &c. if so, then that these mediums or rules of due punishment ought much more to be observed by the Christian Magistrate under the Law of the Gospel, the glad tydings of peace and mercy, then by the *Jew*, and not to outbound, unless after the utmost of execution the Law be found evidently defective, which I presume it never will be under prudent Magistrates.

Now to him that sayes the observation of these Laws was our ground of error;

I say in the Ceremonials of *Moses* it was; and that the receiving of the *Judicials* might open a gap to introduce that error the more facilie, I will not deny; but that this must either cast out the *Judicial*, or make us take the Rule (for this in any just Law I presume must be) from the hand of a Heathen rather then from the word of promise, is the fruit of strong contemplative zeal; for the punishment, so it holds its due proportion, take it from the Turk if you will, or Persian, it matters not.

The Turks punishment, so it be not Torture, may suit best the spirit of *genius* of the Nation; for to burn, hang, behead, or stone, all is but death; and this difference, had Ceremonies so called been lawfull to be enjoyned, might have stinted our controversie of old between the then so called Protestants and Puritans for the receiving the gestures, set formes of Prayers, Ornamentes and Formes of and in Church-Service so called.

And assuredly it ever hath been one of the Devils gyns, to fright men from truth and right by miscarriages in the manner, &c. hence cometh the scandals of profession from the errors, if but of one or two hypocritical or mis-led professos; we may as well refuse the Scriptures because Heretiques use them; and that they lead to *Judaisme* is a great error; for surely *Judaizing* was intimated in no part of the *Judicial Law*, of which any question can be.

For the exception in Fornication, things strangled, and blood, the last two being meats, we are now freed from.

There is a holy jealousie which is for God, and is commendable; and there is a pertinacy from interest, which is Idolatrous and wicked; the Lord open mens eyes, especially those in Authority, rightly to distinguish that they be not found fighters against God.

Now who are to expound this Law, and settle it, and how far their power extends, is our next task.

10. Who have the power to make Laws, and how far that power extends?

Some may think, that the Judicials being laid down to be the fittest rules for Christians, or any men to live by, That this Quære is needless.

For what have we to do with Law-makers, of or among men, when God himself hath fitted the work to our hand?

But these men must know, that time brings to light new inventions of sin, Satan goes about in variety of shapes and deceives daily, and these offences many of them will be difficultly referred to the proper head of Transgression; therefore it is requisite that there be a superintendency to oreview these errors and apply a remedy in time according to their rule, yet to punish life with life, goods with goods, &c.

Now these are various according to the either condition or constitution of the Nation, or both; the constitution according to settled Law and constantly received; the condition time of war or peace.

Now the time of war being only accidental, we are specially to consider acts done according to the settled constitution of the Nation, be it by Monarchy absolute, or limited, or Republique; Republiques of all or any sort; and their boundary is common and publique good, and that either according to emergent necessity, as in case the elders of Gibeath had consented to have all their eyes put out for National advantage; for in such a case the elders had turned evident Traytors to their trusts, but to lose one or either eye. This will receive somewhat more ample satisfaction, if we consider seriously

11. What are the proper Rights of the supream Magistrate, so called, Prerogative.

Now in the handling of this Question it is fit a little to open what is Prerogative; now this simply taken, is the Priviledge or preheminence that one party hath, either above, or before another, and so is no more then to have that of right and duty, which others have by accident or by favor, as to have the most honourable place, to be heard first, and such like.

But to take it in the proper latitude, it is the sum of all those powers, priviledges, Rights and Immunities necessary to the Supream Power, whether person or persons (according to the strict rule) that thereby the people may be the better governed, according to the loose rule, that the people may be kept in subjection, and the glory of the King or Ruler exalted, and that as to absolute Power over both body and goods.

Now therefore to treat of Prerogative in such a sence, is vain; for Prerogative is absolute power; and what the Prince pleaseth is his Prerogative, and this was assuredly aymed at here.

Now Prerogative, according to the strict Rule, is of two sorts, that is, more, or less strict; as for example, some Prerogatives primarily usurped, by time are agreed to, and after constituted, such as our vassalage of Tenures, whether in *Capite*, or that by grand or petite *Serj. Escuage, Knights Service, Soccage, or Villenage*; all which the estates of the Nation have looked upon, and not annulled, but regulated, and the Kings sought to avoid those Regulations.

Now the more strict Rule of Prerogative, is, to give the dues necessary, and that both for honour, and order, and safety, which both the other are but as handmaids to; for the etymological fuitaries, I pass them, intending to hold out truth in her native simplicity, without the ammusing garnish of needless witty vanities.

This then agreed, what Prerogative is in general, from hence it may be collected, that what ever is necessary, or rather of necessity, to the well being of the whole, is to be in the Supream Power: Now this which is by some, and generally alledged as proper to Kings, yet must be also in all Supream Magistrates, as Dukes, Earls, &c. yea though Vassals or Tributaries to other Princes, and must be also in Republiques, or where the supremacy of power rests in more then one person, whether *Aristocratical, Oligarchical, or the pure Republique, viz. the Democraticque State.*

For

For the Prerogative is incident naturally to the Supremacy of power, and that of necessity; for they are the Superintendents of the whole body, and are to have requisites to that Office, as necessarily as the father of a Family or any inferior Magistrate under him ought to have, to govern in their bounds, precincts, limits and places; and therefore the Law of *England* justly in the matter (however in the attribute, or that to admit comparison with the Almighty, might or may offend some mens eäres) by way of illustrative Analogy, gave a kind of ubiquity or omnipresence to the King, and so to the suprem Magistrate, as the first part of his Prerogative, his diffused power (for common good so ordered) manifesting it self in all Offices whereby the publick peace (so called the Kings peace) was preserved, and was necessary everywhere.

But as more necessary, so more apparent in the Courts of Justice, all of which were called the Kings Courts, and the Proceses the Kings, &c.

Now we being ruled by Laws; for to avoid the inconveniences afore-mentioned of pusillage and folly, and alterations accidental to the best of men depraved, through the fall, make this suprem power virtually to rest in settled Laws, and by them they rule, and so neither death, folly, nor any kind of wrong, or injury, can by the estimation of Law be done or suffered by the supremacy of power, so that truly the Law saith, the King can do no wrong, that is, the Law by the supremacy of power, enables him not to do wrong; and to speak out the whole truth, to men of the meanest understanding; This law, and the right understanding and executing of it, is the highest Prerogative of any of Gods Vicegerents, in higher or lower sphears, and is the agreed Rule of common good, as before-said.

Now our great error and delusion of late was to give that to the person, which was due to the Office, and to subjugate the Office to the person, and not the person to the Office, which the Law would never admit; for the Law, that is the purity, yea, transcendence of Reason, leaves the person of the Prince naked, in case of Male Action, though it censures not in all male administration, where it admits him positively to judge.

I shall give you an example to illustrate; for if the King enters a mans house disguised, and offers to vitiate his wife, daughter, &c. and be slain of the father, husband, &c. it is but as the death of an ordinary person; and truly by the principles of the settled Law be he known, it is no more.

I shall put but one Example more; A Traytor is by vertue of the Kings Writ, brought before the Judge; Arraigned, and Condemned; the King grants no pardon, (which I suppose he in such Cases cannot generally, though it was done customarily) nor uses no legal peaceable way, but by force personal sets himself in Act by his Guard to take this Traytor out of the hands of that Justice to which in his Politick capacity he hath Sentenced him; and the Sheriffs men defending the Law; and the Guard by the personal command of the King, seeking the overthrow of it, by taking away illegally the prisoner; and they fighting about it, and the King running in, he is slain, it is no murder by the principles of the Law, which owns not the King in this Act of Tort and Force, and takes no notice of the death of that person as King, who in Law dies not; for the Law cannot now take notice of it, because out of his Sphear; by this it is evident to what end the Magistrate is cloathed with so called Prerogative, namely the advance of publicke interest.

Now, as in this sort, it gives to the suprem Magistrate the glory of the Courts of Justice, and the disposings of them, as one part of Prerogative; so knowing the honor of the Supream Power cannot be maintained but by some set way, as it seems the Ancients provided here, so much of all sorts of provision, both for the Kings Family, as also for his Stable, at the so called Kings price exceedingly abused, besides the so called settled revenues of the Crown, namely Crown lands, Fee-Farm Rents, &c. So it also provided for Emergencies, and that both for charges upon the sea, and also for the land by Customs now so called, Fines, Forfeitures, (wrecks of the sea how unjustly soever) land deserted of the sea, lands of Ideots, Treasure found, goods without owners, Tythes of lands out of Parishes, and the like: And upon these, or any other matter, if any debt did accrue, it was satisfied to the King, (that the Commonwealth might not lose) before any private person could be satisfied one penny, (the abuse of this was grown intolerable, but I here treat of Settlements) and how long since it was

in the Kings case it matters not; for no slipping of time could prejudice the Kings Title, as in case of a common person, who was tied to sue within such a time, or the time might be pleaded in Bar as was justly enacted.

Now the reason of this was just and good, preferring publike and universal good before private and particular; yet this proved offensive oft-times, because it was made the instrument to absolute Injustice, while restitution was made to the King, to the evident destruction of a stranger, that is a third person whom the Law left remediless, yea though utterly undone, and begging from door to door.

It was also for the same reason construed to be Law, that in all Grants made by the King, they should be taken most beneficially for him; and that they should not erre to any other construction then what was manifested in the body of the Grant, that is, the plain letter must be taken, and no implicite construction of Law shall be taken advantage of, against the good of the Commonwealth, as against a particlpar party.

And lastly, In case of Grants it is void, if it appears that the King was deceived in his Grant; truth, these originally just things, after the fatall wisdom of the Law was politickly perfected, came to be made the Mystery of Iniquity; for it was said, the Grants were made according to these received Rules for the Kings sole benefit, whereby he that was once made the Kings Officer, was ever after scandalized for a Knav; and he that was once the Kings Farmor, Grantee, or Debitor, his estate was always after esteemed incombred.

Now this was more feared when it was granted to him by Judgement of the Judges, that he in Temporals might by a Clause of *Non obstante*, dispence with any Statute Law; and that though the Statute saith such dispensations should be utterly void, as it was in the time of *Henry the seventh*; the beginning was in *Edward the fourth*, not so plain; Acts of Parliament bind not the King unles especially named.

Now these unhinged all our Liberties; for by the one he was not bound except named; and by the second he might dispence how-ever named; therefore these, how ever used, I cannot reckon as legal Prerogative.

I now proceed with Prerogative called Just; that is, That the King, or Supream Power for the benefit of the Commonwealth, have the estates of those that die without heir; for no private or particluar heir being, the publike is rightly preferred; so if they purchase who have no right, as Aliens; they have also given him those Royal Mines of gold and silver, lest such things in Subjects should raise them so high, as they should be able by leavying Arms, to contest for the Supremacy, and attempt a Tyranny.

Now this, if agreed, as agreed, is most just; They gave him some honorary respects meerly; as for example; That the Lord should not seise his Yllein in his presence; how justly, may well be Queried.

For if just to be done, why not more just before him? To which may be added, That Americaments, Fines, &c. which had no exact literal Rule, as offences made by Statute punishable by the Justices at Sessions with unlimited Fine or Americaments, were said to be by vertue of his Prerogative as his Justices, that is, they were to Fine at discretion, that is, according to the nature of the fact, respect had to the Law; that is, saving his Freehold, or not to the value of his Freehold; or so that he should not for to pay that Fine be put to sell his Freehold; all which are argued for, with much nicety, little Christianity.

Now as for the benefit of the Commonwealth the Law put the King into possession of others (though by matter of Record) so it kept him in the State of the Commonwealth; for, for Lands *sure persone*, or hereditary at Common Law, the rule of Law extends not to it, as I conceive; therefore the King cannot be disfised; and many other such things, as the goods of Felons, murderers, &c. which is, or may be just in murder in some sort (but in no case in Felony, but they ought to go to the person wronged) and in manslaughter, and defence of a mans own person, there ought to be no right to the Checkquer, not in the Self-defence at all; and in the others it ought to go to the party; for if the Law in forceable strikeing give dammage, and more in wounding, and more in Mahem, then most in killing, where the life of the criminal is saved.

That of Deodands is in the Law; and I see no warrant for it, but the meer alusiv equity

equity of the Judicial: It is also said to be a part of the Kings Prerogative to have special Judges to try the right of his revenues as is the Checkquer; and the differences of his immediate Officers and servants, as the Steward and Marshal of his house; and instead of Action against his person, The Law by the Ordinance of *Edward* the third, for honor sake, framed it in nature of a Petition, but the Process was as against an other person; and so if Justice be upon that, it is just, otherwise not; it will also admit no wager of Law against him, and which proved a great abuse, and was unjust; and is no way either honorary or necessary; he did take then under pretence of being his debtors, into his protection to the overthrow of many particular persons and universal detriment; thus was Derogative.

Again, Judgment was never final against him, but with a fignentitious advantageous evasion of saving his right; and this was also new and not necessary.

I come to two main and principal steps to the eminency of Prerogative, alwayes afforded the Supream power; which are, first, That the King hath by his publike trust, power to do whatsoever there is no Law against; So that from hence hath arisen the obstructions to Laws upon new Causes; namely, settling that in the Law which was before in the King; and so abridging the Royal Tenure: By vertue of this he created Corporations, and made Denizens.

The other was (from Gods appointment to *Moses* surely) to appoint places, so called, of Priviledge, like Cities of Refuge; but undoubtedly this was a civility betwixt the Kings and Popes, to raise a benefit to the King, by priviledging: That Charter had many Fees, and then the Pope made it by allowance a Sanctuary, and so secured by both powers; what can be doubted? that must be just where *Moses* and *Aaron* joyn; and these men, both Pope and Prince did well, they saved the life, but squeiled the purse; and none affoord such milke more freely then Rogues and Whores, as all Histories evidence.

This is the summ of all the Prerogative so called; that I in this haste remember, just, or unjust, that the Laws of *England* hold forth. The three main pillars upon which the Edifice of Prerogative stands, all these being but the Ornament thereto, are the absolute power to make Laws, War and Peace, and raise moneys.

Except in some few scattered Judgements, arising upon Emergencies, and are not indeed worthy the name of Prerogative, though in our Topical heads of Laws, they be so ranked, but rather priviledges or Royalties; many of which were obtained by Subjects; for what a Subject may enjoy I count not Prerogative; therefore not Coyning of money, &c. nor Royal fishes, nor a hundred matters of the like nature; and wreck is generally detestable, and the Royalty of grandage abominable; but the generality of them are justly belonging to all men with the Supream Majesty, especially those favors of errors in pleadings, &c.

Now this Legislative power was never in the King, nor no reason it shoule which alone shews the Kings in *England* never was since the establishment of the three estates the Supream power; for the makeing of Laws was alwayes since in them, as the body Representative of the Nation, and so the Lords and Commons were put as a Bar to invading Prerogative.

Next for war or peace, it was not in the Kings power; his Knights were bound according to their Tenures, but not otherwayes; and the special of them not performing their service, were to be fined nowhere but in Parliament. The last of them which are the sinews of the war, were always in the peoples hands, never denied by any King, however subtilly overuled upon, as by loans, privy Seals, &c. which were always declaimed against, and damned by Parliaments.

These were and are necessary to the Supream Power, but never trusted to *Englands* Kings, a sure sign the Supremacy was not in the King; he knew it necessary to aggrandize his power, and for an absolute subjection of all interests to his, to claim that these were incident and appendixes to the Supremacy absolute, which he aspired unto.

And though the Forts, Ships, Magazines, and appointing Judges, Governors, Captains, &c. were actually in his power; yet hereby it is plainly seen to what end, and how impudent they were to the then true *English* Interests, who stuck to the King against the Parliament in this war; but that controverie is besides my task here.

Therefore I proceed, and say that it is necessary still, that the total and absolute Supremacy hath these powers, *viz.* of making or giving forth Laws, making Leagues offensive

offensive and defensive, denouncing Wars, and establishing Peace, and also to raise moneys.

Now this I know not denied, by any publike and approved Judgement; but these men have their bounds, their limits also; for general, common and publike good, is their limit, their chain, and to see the end of this, it is fit next to see

12. Who is Judge of publike good, and his Rule of Restraint? and whether it be fit to admit this absolutely in the Supream Power?

The Kings formerly were not unskilled in the issue of this mystery, they boulted out what others will bake, who ever eats it.

Now it is plain, this also is required in the Supream Power; for it is impossible to settle particular Laws, suitable to each particular occasion; for in the corrupt state of man, as the Law is profitable or disprofitable, so it is relished; as for example, in an equal rate, the just man likes the equality, and so doth the covetous; but he saith, no rate at all; and if an honest Miser can be, he approves equality, but he repines at the payment.

Now the boundary is evident publike good, and of this in the manifest parts of it are all men Judges; for though in transactions of the high affairs of State, the profession may not be fit to be made publike, yet the winding up as it is evident, so the reasons of that issue, may, as some conceive, fitly be accounted of, at least to some specially appointed, who are to be impowered to that particular end, as the *Ephori* or *Spartan* Court, who judged their Kings Actions, the Tribunes at *Rome*, and *Democratice* at *Athens*.

To this it is answered, That the condition of the Commonwealth, where the Rulers and Law givers are transient and personal, are naturally inclined to more equality in dispensations then Kings, who wholly labour to bring all to the power of their Successors, Princes like them; but the sons of the other are like to be under government.

The other reply, that with all men present interest works; and power present may if not bound and limited, prove obnoxious, and for private respects, neglect publike profit in the Republike, as in the Monarchick State; for all are men; nay, experience hath manifested, that many Senators have been corrupted, to the betraying their estates to the Empire of a Foreigner; never yet a King, but to assure his Kingdom, and so he was not corrupted.

The other return that these accidents of the world do not at all conclude more then what was done; The ambition of most Princes hath made them true to themselves, and the Covetize of some Senators made them false to their Country.

But the Question here is onely of the absolute judgement of the Supream Power, and that is concluded positively to rest there in all dubious matters most unquestionably; but for matters destructive to common good, or to common Justice, or against Reason, they are allowed to be accountable.

Yet it is again replied these were the boundaries before to Kings, and are the boundaries to all Powers; all have generally broken in all sorts of Governments; the examples of submissive accounting Supreams are rare; one was found in *Rome*, and one in *Greece*; and to finde two more in all the world is difficult; for who as these will be buried, and have their daughters married of the publike purse, when they have the Treasures of a Nation in their dispose, and may benefit themselves much with little or no hindrance to the State? Pitty it is, the injustice of great men should give such cause of suspition; and folly were it while men may, not to set a bound, and not to set it in the first settlements, makes the proposal for the future difficult, the establishment dangerous: Therefore they propound, that the Law be established as agreeable to the light of Nature, examples of other States, continued experience, and not against divine institution.

The wise and just man will submit to that in himself which he holds requisite to require from an other.

The Parliament of *England* allowed the King a Judgement of the necessity, but not the sole Judgement, but that was because the Supremacy was not absolutely in him; and all held fit not to vest absolutely Supremacy anywhere but in Law; so that untill established by Law, the matter is in question.

And

And though the time past when the Legislative power depended upon the Kings will and pleasure, by his calling or not calling Parliaments as he pleased, there might be some difficulty to settle dubious matters; yet that Bar broken, where can a let be, unless we convert our mercy into a judgement?

Upon all this it is plain that there are many difficulties in the nature of Prerogative, whereby to understand it clearly and truly. All States, that is, the Supremacy of power, do labor naturally to advance the so called Prerogative.

And the people generally ay me as much at liberty, but Kings most, and they more specially where the Crowns go by way of succession; for the great part of personal Prerogative of a King dyes in a State, except the Supream power will continue it (but then it is requisite in such an alteration to settle justly, and remedy fore-experienced and evidently foreseen evils) therefore it is requisite that the continued complaints of men, especially against the Kings Butlers, the Clerks of the Pipe, Chequer, &c. in their fees be settled; for the paying and gaining of a *Quetus* upon a duty to the King, is almost as much in Fees as the Rent it self. Now I come to see

13. *Whether the Supream power can grant the inferiour Prerogatives, such as Wreck, Forfeitures of Felons, Royal Fishes, Treasure, Trove, &c. and How?*

Now for this, it is plain, first that the Kings have done it, and these honours were never denied; for, for most of them, generally the charge of obtaining, was as much to the Crown as the thing it self; Therefore whereas they had Officers and Offices in every County, attended upon every Court, and some special Courts for Sea matters: The Kings did give these as rewards to their Nobles, and great men, within special Precincts, where in the primitive settlement of the Nation, their dwellings were, and so he was discharged of his Officers, and the due Courts were let down, and the Tryals were reduced all to his Court of Admiralty, which as in all cases, was, and is, a burthen intolerable to the Subject, and to all impoverished persons Justice is by this turned into Gall and Vinegar, especially to distressed persons by Sea; for the poor people all along the Coast, are like so many Harpies; wreck or no wreck, all that comes to their net is fish; and thus to save a little charge, we are infinitely inhumane; but by this it is plain, all but the power of making Laws, war and peace, levying Moneys, and some say Royal Mines, are grantable by the Supream Power.

Provided that due means of Tryal of Right be preserved for the publique benefit; otherwayes not.

Some say, that this is generally true, that is, the Supream Magistrate hath power in all Laws meerly Civil; but in cases religious, or wherein properly the conscience may, some say does scruple, the Magistrates power ceases; therefore it is fit to look a little at that, and quare,

14. *Whether the Magistrate be Keeper of both the Tables so called?*

They who make this controversie, are not presently to be thought enemies to Magistrates, nor enviers of Ministerial Dignity.

Some have admitted the Popes Primacy, who have denied his Supremacy; others have given Princes all power; some a Negative, but not an Affirmative power in so called Ecclesiasticks or Church matters; others take away the Popes Primacy; for they take him away, equalizing all Pastors, and that that speciall designation befits no earthly person; others bind up the Magistrates hands wholly; some by denying Magistracie; others by restraining him wholly to the name of Civils, not sufficiently caring for (by assured and preventive means) those errors which have heretofore clouded the excellency of Magistracie by the pride of Churchmen.

For were inherent holiness visibly and settledly, and so infallibly tyed to either of these, the Supremacy were determined; but while they are all men, they must have their bounds and limits.

Yet in the Kingdome of the world, the Prince must bear sway, and hath the preheminence ; The Heathens in glory of the Prince annexed the Priestly Office to the Superior Power, not the Kings to the Priests; and under Gods Law, *Moses* was *Aarons* Prince or Father, *Aaron* *Moses* Prophet.

Next the Civil part of Judicature was ever, and now is clear and manifest, except where interest or humour prevails, and let that humour alone, and it is ready to swarm into interest imme diately.

But this you will say determines the first part of the Question, but the latter is undetermined.

To that it is generally answered, that what power is necessary for the preservation of the peace of the Nation or Government, is proper to the Supream Magistrate ; but an obliging power, that is, that simple obedience is to be given to his determination of but dubious matters in points of either Doctrine or pure Church-Discipline, I beleive never was nor will be yielded to him, in matters circumstantially Religious; otherwise barely civil, was, as generally agreed, and will not now be denied, as concerning the time of Congregating, the place, and other Circumstantials for preservation of the peace of Church and Commonwealth ; yea, if it were upon good reason, the number that were to congregate, provided there were enough to constitute a Congregation, might be set by the Supream Magistrate, and Christians bound to obey; but this is only as keeper of the first Table, not of the second.

Now to clear this, it is to be known, that if it be taken to be the Keeper of the two Tables, so called, to promote by all lawful means the glory of God, as the good of men, as all good and just Magistrates will and ought, yea if it be by preaching himself, or themselves, and that either by word or Doctrine as good life, they and all Christians are the keepers of both Tables, and he or they as supream in power, and so as more entrusted with means by God, to do most for God, then he or they who have the supremacy, are by way of eminency the special keepers of them, but that they are designed more especially to represent either the Kingly, Priestly, or Prophetical Office of the Lord Christ, as head of his Church, without the manifest tokens of more especial Grace and divine Revelation, whereby to periodize the Controversies of their own Subjects, holding forth to us under the same rule the will of God as the Priests under the Law, is not easily discerned, nor will I beleive be strenuously urged.

The blessings which our Lord and Saviour held forth, were meerly tending to his spiritual Kingdome, and the propagating of it, and given out to the Apostles, and in them to all the Church, as most suitable to not onely reason generally, but the reason of that our King in his Transactions amongst them ; of this enough at present. I come now to the last Quare of the Prerogative of Princes.

14. *Whether Male Administration doth ipso facto dethrone Princes, and give their Subjects power to depose them ?*

15. *And whether Kings and other Supreams may be punished, by Whom, and how ?*

THIS is a great & weighty controversie; truly Magistrates that desire to be flattered, stand off, you can hear nothing safely; for your safety is your danger ; Now what we have said before, tends much to the illustration of this point, that is, the due consideration of the end for which Magistracie is ordained, (for by the Law of pure Naturals no one is above another) namely the preserving few against many, weak against strong, and right against wrong, in Scripture phrase to be a terror to the evil ; and so that end not to wear the Sword in vain; so that while evils are or may be, Magistracie is necessary to be.

Now generally the defects and failings of Governors in themselves, are not simply and alone a cause of neglect of obedience to them, or the Laws by them ; for evil men may be good Magistrates ; but in case the Magistrate seeks to overthrow

throw laws, and all Righteous Government, altering or crossing wholly the end of his ordination ; it is in this case clear he is not a Magistrate, but he is a Tyrant, an usurper, an Enemy to Justice ; but then it is believed by some, that the light or interpretation of this defection is in every man, and so each man judges, and may justly withdraw obedience and oppose. This is gross ignorance ; no then every unjust man punished, would be ready to rebell, and miscall his deficiency Revenge of injury to the publicque.

The Pope by the evill management among Princes of this quarrel, brought the decision of all these controversies to his Tribunal, and by the steps of seeming justice, mounted the Chayre of Antichrist ; for he finding that the Ambition, Pride, Lust, Coverteze of earthly gods, had raised up men against them, and that many halings and pullings were, between the Princes and Potentates of the earth and their Subjects, the one to have all the power in their own hands, the others to defend what they called sometimes Priviledges, sometimes just Rights ; one while the inheritance of their Ancestors, as what they had contended for and delivered to them, sealed with their blood ; otherwhile their proper and natural birthright, as dues to the people, which no Power or Usurpation of a Prince could divest them of ; he politickly holding forth the necessity of an Umpire, got absolutely into the Chayr of preheminence, and deposed Kings for pleasure, and Kings and Emperors and all for his profit.

Who would believe, that now after five thousand years experience, the world should not be able to unriddle this mystery ? the soure of all our controversies is the Judicials not rightly understood ; for assuredly, the Acts of their Kings is no rule for us or ours ; we are to follow them no further then they follow the light, which God gives us all to walk by, that is, if you will look at their King, it must be as bounded, not as imitating the Kings of the Nations, as not exalting himself over his brethren, not as taking away the excellent young men and beautiful Maidens to be his servants ; and if so that he be under a Rule, then he is not to rule, not onely not evilly, but not so well as he presumes he might, unless it be made parcell of his Rule.

But if he breaks this Rule, who shall enforce ?

Now in this case it is plain, that a Prince, Ruler, or inferiour Magistrate, doing greater good then his Rule limits, is in an error, especially if opportunity were of having that enacted into a Law ; for men are men ; and to do so, opens a door of jealousy 'twixt him and his people.

Next it stands as a president to his Successor ; Lastly, it absolutely intimates either a neglect of the Law, or seeking freedom by degrees from it ; but if this were evill or detrimental, what remedy ?

To clear this, there must be a difference taken betwixt things partly destructive to the end of well reigning, and wholly ; for unless wholly destructive, threatening the whole community, there is no caule evident ; but grant it so, we must then see whether the Prince be an absolute Monarch or limited ; If absolute, then it is the greater difficulty ; for there being no barr in such cases, betwixt the Prince and lust, the decision of the difference must be by the whole community, at least the greater part ; and if they break out, wo to the Commonwealth, &c. It is the difficulty to do just things in such extremities, not the injustice of the thing puts so many barrs in the way ; and the evil truly is so great, that prudence hath totally waved a liberty of such judgings, finding the dear rate Liberty is in such cases purchased at.

But some Princes have by renewed Tyrannies, trusting to their power, enforced the multitude to lash out, and great men for safetie to head them ; but when matters come to this pass, it is surely a judgement on both sides.

Now all Christian Princes held this, that they being all Typed out by the Judicials, they forsooth were absolute Princes, anoynted with holy Oyle, and so apply all the Texts of *David's* not daring to stretch out his hand against *Saul*, his heart limiting for cutting off the lap of his garment, hindering *Abishai* from killing him in his Tent ; yet agreeing, the Lord had delivered him into his hand, and that after the Kingdom rent from him, and given by God to himself, and he with holy Oyle also anoynted.

And lastly, for his slaying the *Amalekite*, who pretended to have killed *Saul* his request, to themselves, as anointed, &c. and upon this they get the heart to transgres Laws at liberty, and even do what they lust, yea inverted the just ends of universal good, for the enhansig of absolute power to their own ends only, neglecting the publike, claiming propriety in the Rights of the Nation, as in private inheritance, though truly to that end alone any power absolute or limited cannot be pretended to.

Now therefore I said the evil of common Rebellions, &c. hence arising, The Pope the Lord Christ's servants servant becomes the decider of the controversies of Princes, when the Lord himself would not be a Judge amongst ordinary men; and by this string were the Princes of the Earth drawn to commit Fornication with this Whore, and thereby fate upon many waters; but if to be that there be none but the Pope that hath right to depole Princes, surely they need never fear.

But in case they be limited Monarchs, such as all Christian Princes were, having their estates Judges of their Actions, whether they were called Dycs, Assemblies, Conventions, or Parliaments, they are to be judged by them.

Now to know whether they were Judges of their Actions, or not, it is only considerable in whom the main and principal part of supremacy rested, for making and annulling of Laws, war and peace, and raising Moneys.

For as these were intrusted, so was the supremacy and trust of absolute power more or less visible; and if the Estates had the most, then no doubt they may call to account, yea and for ought I can see can be fetched from any the Texts aforesaid, or any other, may be punished, but not by *David*, nor *Abisha*, nor *David's* six hundred; The case was personal as to all *Israel*, so the enmity was private, and *David* and all these were but particular persons, private men.

Now therefore to avoid the danger of general Concussions and Conquassions of a Commonwealth, settled in popular order, it is requisite so to temper it, that the constant acting Magistrate may have a kind of superadvisor, and the truly wise and honest will sooneft yield.

Such as would be Tyrants, if Kings, will only seek unlimited power in Commonwealths; let not this seem unreasonable; to give presidents were easie; but you will say facts prove not. I have given reason, and if that will not prevail, what will? the reasons are evident; give a divine word, and I am silent; for all Saint Paul's give obedience to Magistrates, and let every soul be subject, will bear no more water now to free wicked Magistrates from due punishment, how high in trust soever, so the punishment be done duly, then that of *Paul*, Give not a Virgin in Marriage; Force may suppress the opinion, but wickedness of Magistrates will raise up their own strengths against them; yea, their confidents will betray them; and if from hence you conclude I hold Magistracie a humane Ordinance, then you must agree to what I hold forth; for what man establisheth, man may pull down, alter, punish, &c.

But I say, Magistracy is Gods Ordinance, established for mans good, and by man admitted under various names and notions; which persons and Offices particular, are the Conventions of men, either by force, which are void, or Conventional and by compact, which being civil, are and may be enforced.

Now this is to be known, that this is intended only still in Civil matters, wherein just and good for the well being of men as men, is intended, not of power or obedience in respect of Religious Duties.

There are, as I have said before, evils in all States, through the pravity of mans nature; so that it is not the form of Government, but the men, that in Religion and Reason gives forth blessings unto a State; and the degeneracie of men was never more then now, and never more then among so called Christians.

Blame us not therefore, if we endeavor to beat out the truth; we have seen the glory of absolute States, and also of limited ones, and that both in Royalties and Republics; we know the vengeance of the Lord at the last, which he, we beleieve, will repay upon the heads of highest, proudest, stoutest, yea and their children; also in outward calamities, whether one or more, whither Kings or States, all their abominations with judgements answerable to his Mercy; and upon this ground we are willing to let the Supream Power loose.

We have seen the abuses of these boundaries, and bars to Prerogative, and how they have

have oft upon unjust grounds engaged people to wars, and brought great evils upon the Nations.

We have on the other hand seen the lawfulness of their Bars, together with their conveniences, tying up the ambitious nature of man, and as they were instituted, oftentimes preserving a Nation from the gripes of a lusty Tyrant; yea under them we have seen the excellencies of Order, Government, Temperance, Chastity, Humility shine in Princes as in meaner men; and in the Chief Magistrates, as in the industrious so called Commoner.

We have lately seen at home, and do still abroad, that great men in power put the evil day far away; and if they have no aw upon them but the general Audit at the last day, it is so far off their consultations, that they are in a most lamentable woful case who find no mercy with them till that day.

I come now to the last part of this Question, and that is how they are to be punished.

To which it is generally answered, That they who have the power absolute, and can punish, have no rule but prudence, in enlarging or restraining them; they generally used banishment; but this in successive or hereditary alterations, upon the same ground of prudence, cannot be safe; therefore some have immured them, and starved them, some imprisoned them, some cloystered them, some privately murdered them; but all these were acts of pure power and force, and left but an implicate construction of Justice on their actions.

Our new and unparalleled Transaction doth I know to many seem Heroick; and if established by Law, upon this president, would be an admirable adventure, to hold an aw upon the spirits of great men; and to that end, they desire the explanation of the suprem (power or) Magistrates Trusts, and in what cases it shall be lawful to arraign them, with the same legal provisions as King *Charl* tyed his own hands in the Act for a Triennial Parliament; but I leave treating of this, lest I grate to no purpose. I come now to see

16. *What are the Priviledges of Parliaments, and in them of the Bars to the Supream Power?*

First, we must consider, that these meetings are according to the Rule of pure Native Law, by the advice of many, and those duly elected out of the people, to avoid confusion, to take care for the settlement of all those errors, which intervening time produced since such an Assembly last Congregated; and that both as to the Actions (of the King in his Officers, where the King was held inquestionable, and therefore which was unjust in some part, his servants were punished) of the higher Magistrates, and inferior Subjects, either in a legal way, according to the ordinary constitution of the Nation, or extraordinary in case of emergencies, for which no Law was provided.

The examples are manifest in both; Now the priviledges of these men were, and ought so to be wherever such bars are, first (that the due right of the subject might be preserved) that those who were to be of the Parliament were duly chosen, that is, neither by fear nor favor, which was from either open force, or private warnings or requests to the friends or dependants of great men, which were commands, (which how broken and still are even by Reformers themselves to their shame not of Reformation is evident.)

The next priviledge is, that being chosen, they being now of special use and imployment for the publick, themselves, horses, goods, and menial servants, were priviledged from Arrests, distresses, &c. and only they, (for the law of entertaining by giving protections was a dispriviledge of the common Subjects, for whose sake only they were priviledged) and no more (that other being but a meer Royal corruption, by degrees to make them all seekers of interests, upon that base Maxime that trusts were to their own benefit.)

The next was, to have free liberty to chuse their Speaker, who was not to be disallowed but upon good Cause, and that Cause they were Judges of; for all see else, the vanity of the formality, if the approbation be upon meer will; for then there is the power

power of Election, and this Speaker they may also upon good Cause put out, by the Votes of the greater number.

The next priviledge is, That they have a free liberty to treat of all matters; the assembling by Kings Writ, the being called his great Council, are honors of Time, and formal, and cannot abridge their necessary liberty of free Treaty, &c.

But their power appears, in that they had the *Guardianship of the peoples Lives, Liberties and Estates*; and though in the variety of changes, they did as all mortal Powers do, sometimes submit, sometimes inforce, as the condition of Times were; we must use a true foot, and ascribe no more to them then is needful, not plead presidents, but Supream reason, by which they therefore might and ought, during the forty da yes Session, a convenient time (which by convention seems the time set, during which the King could not dissolve them) to receive Petitions from all places, by turning themselves into Committees, and hear how matters went with the Nation, upon such Representations, from the particular Counties, Cities, and Town therein, addressed to the particular Members, chosen by them for the aid of the whole Nation; and upon these, to call some say the Kings, all agree all the Kings Officers of all sorts to their Accounts, as Treasurers, and that both for Land and Sea; yea Officers of Peace, as all Judges, &c. and of War, as General, or Lord Marshal, or by what other name, or names on Land; or Admiral, or &c. at Sea, Captains of Forts; and all others, who managed the Revenues, so called, of the Crown, that is for the publike benefit; and this power is coincident to every Bar to Supremacy.

And truly where this is not, it is easie to believe the Supream Majesty may soon pretend all is intrusted to his own Will, and for his particular benefit: then they may adjudge, and sentence, but not in Committees, but in the whole house; otherwise there is no legal proceeding, and really and purely; this did, and was to rest principally in the Representatives of the people, who are the Commons, (the separation of the Houses as with us, and the single power of the Lords to Judge, the Commons to accuse, yet one Court, is much differing from excellent Reason, if not contrary to it) that so right might be done to the whole Commonwealth, against the out-breakings of the King, and also to every particular person by restitution against the wrong doer; yea, though by the Kings Command, or Commission, if not agreeable to the Law.

Now the limited times of Parliament were necessary, lest otherwayes they should abuse their Power, or usurp Supremacy absolute, and also become desperate debtors, because of priviledge.

And lastly, that while being men and capable of erring, their false judgements, if any were, may be rectified by a new; for it was, and must be the priviledge of these highest Courts, not to have ought done there by any of the Members questioned in any other Court, onely Treason, Felony, and the Peace, which being flagitious, the excellency of Reason admitted no priviledge to; for how could such enormous Transgressors of the Law be righteous Law-Makers?

The last priviledge is to have pay for their pains, by a (it should be equal) rate, upon all the Freeholders in the County; that is, they who legally had, or might have had a Vote in the Choice; and this allowance was to be set by Parliament; and who could they better trust with a little of their estate, then they whom they had formerly intrusted with the whole? and this was not due till the end of Parliament: So jealous is Reason of all Supremacy in the corrupted state of mankind.

And surely none that is not actually in this height, but will agree to this just Reason; and he that is in, if he intends onely a due use of it, cannot deny it, this is just, betwixt these powers and them for whom they are intrusted; for it is plain, as before, that all eminency of power, is solely and onely for the safety of the people; wherefore it is fit to see wherein that safety doth consist, and to that end we shall Quere.

What is, and wherein the priviledge of a free Subject doth properly consist?

Having seen the great and due care of the Law, for the well providing for the Supream Magistrate, and that it looks at due (both) power and maintenance, and sets limits in it self against all excess and our boundings;

We now come to see after the priviledge of the Subject in the body so called Representative, the priviledge of every particular man, wherein the Supream reason hath also looked at every one but as a Member of the whole, and hath settled that as the greatest priviledge, to do most for the publike welfare, and well and orderly government of all these, in such sort, as not onely the principles of Nature, but the long experience of so many Ages, and above all the inlighenments of divine Wisdom, have handled out to us in such manner as they are without all question.

And therefore as it is sufficiently manifested, that particular men are through power, favor, riches, malice, and such like, as ready and as desirous to deal unfaithfully, injuriously, and inhumanely with their neighbours, as the Prince with the people; therefore most excellent Reason, so called Law, and above all the divine Wisdom hath held our Magistracy to preserve as aforesaid, against these evils by due Laws; and the justness of these, is the greatest priviledge; and to have them like Gall and Wormwood is the highest dispriviledge.

The special matter wherein we usually place priviledge is, first, to Life; secondly, Liberty; thirdly, Goods; and fourthly, good Name; and the Law for good Cause restrains a mans self in the abuse or ill use of these, as well as preserves them to him against others.

Now that which gives, is of more value and more honorable then that given: The Heathen expressed it thus, More glorious is it to rule Kings, set up, and pull down Kings, then be a King; whereby it is evident, That the priviledge of the Subject, is not to live at lust, do as he lists, revenge injuries, and act Will for Law, whether in higher or lower estate, that is, the Magistrate inferior to Tyrannize over the people without contrall, nor to execute what laws he hath in his power as he list, but according to his rule; nor the subject to abuse his fellow-Subject, in word or deed, much less to arraign the Magistrate and his actions with a forked tongue of envy at his pleasure, no nor to misuse or abuse his own time, his estate, his liberty or power in his place, and disobey all Law, or at least question and wrangle it, how just so ever, it contrary to his interest; and how plain so ever, yet to enter a contention merely for pleasure, and through his purse-potency, to make evil good against his meaner, or less favoured neighbour; In short, it is not to do what ever evil Custome, or corrupt Practice, or Selfish interest calls Law and due right. I shall give you but one example or two among the many thousands of Englands Plague-sores, not at all, or not sufficiently provided against, *viz.*

A. Being a great Merchant, and might be trusted upon his own Bond for an hundred thousand pounds, takes up sixty thousand pounds, with which, and twenty thousand pounds with a wife for his son, he purchases five thousand six hundred pounds *per annum*, settles it upon the son, and his wife, and after breaks; this, and a thousand such gallant Cheates are ordinary, and remediless, though it will be pretended otherwise.

So again, *A.* Merchant of London sells upon likeing, at a set rate, to *B.* a Merchant in Yarmouth a barrel of Nutmegs, and sends them by sea by *C.* Master. *B.* dislikes them, pays double freight, as per agreement and returns them. *A.* sues *B.* for them, and recovers. *B.* sues *C.* for them and recovers; the value is thirty pound originally, the costs of suit cometh to one hundred pound, which is as much as *C.* is worth; *C.* upon this being cast at Common Law, flies into Chancery, or upon *Affida.* discovers that the truth is, *A.* had the barrel of Nutmegs, which upon the Trial betwixt *C.* and *B.* had been fully proved; but that *C.* not knowing the servants of *B.* thought he knew the name of him to whom the goods were delivered for *A.* his Master; and *C.* coming to *Subpæna* him to appear as witness, *A.* justly believing at it ought, that the shame and damage must at last light upon him, sheweth *C.* a wrong man, who takes his monye and the *Subpæna*, and appears, but can evidence nothing, and *B.* is overthrown.

Now such, and the like Cheates, Thefts, yea as bad as Robberies, are not at all, or so lightly, and that with so much charge, punished, as is too much shame for a Barbarous Nation holding forth common Justice to allow. So

So the wretchedness of Juries, and the like, which are so clean perverted from the first institution, that though many honest, just, wise Patriots eye the first institution with great consideration, yet they now see them with hearts of Regret, abused and abusing their high trusts, and all is pretended the liberty of the Subject : So far hath the corruption of interests prevailed upon all estates.

To rake in this puddle of Negative Priviledge, were to draw almost all the ordinary actions and litigations of the Commonwealth into question, and arraign all persons in our Apostate pretending Reformatory Age.

I will not therefore expatiate, but come to the Affirmative part of the Question, and see wherein the liberty of the Subject doth consist properly, and consider the same, as I have done the other, (though tacitely) generally and particularly.

First therefore I say, that the priviledge of the Subject is to be governed by righteous and equal Laws, the Magistrate executing without partiality, his power, in, and for the preservation of life, goods, liberty, and good name, according to a just, known and manifest Law, for all enormities, transgressions, offences, and crimes whatever.

This in general ; In particular, it is to have the Supremacy of power so settled, known, and declared, both in point of Revenue, honor, and power, as consists with the best safety of the whole ; and that whether it be in a State Monarchical, or Republical.

Secondly, That the Laws by which they govern, be as far as may be certain, plain, and easie to be understood.

Thirdly, That this Law may extend to all offenders ; and the higher the trust, the greater the punishment ; and the higher the injury, the greater the recompence.

Fourthly, That as the Laws be evaded, or disused, or misused, or new evils encrease, for which no head Law is provided evidently ; that this at the charge of the publike be speedily remedied, that so the vicious nature of man may be deterred from acting old, or inventing new forms of sinning.

That these Laws may extend to the Magistrate and Subject, Superior and Inferior in all degrees, Political, and Oeconomical ; yea, to the superadvising the estates of constant, vain, idle Spend-thrifts, (if such should grow in a decayed State of a Commonwealth, which in a well settled estate cannot) as of persons under age of management of their estates, or Ideots, or Lunaticks, for that viciousness in full fence is worse then in a depraved one ;

Yea, To look to apparel and diet, especially drinking, and also recreations, especially so called Gameing ; for each mans time growing famously irregular ought to be limited by the publike Magistrate ; and so in bargaining and selling ; yea, where a medium may be, to set it, or the Rule for it ; Let not this onely be laid upon the preciseness of Religion ; No, the *Greekes* and *Romanes* did by Nature such things ; and they without the Law becoming a Law to themselves condemn us who have the Law and yet break it ; is not deficiency of Judgement worse then that of age ? and the Law of property is not by this broken.

Again, It is the priviledge of the Subject, that they have fit Judges, Officers, and Ministers of the Commonwealth, qualified according to the Rules of the Law ; and can there be better then men of wisdom, fearing God, and hating covetousness ?

Next, That their Salaries be such as may be fitting for their places, and not burthen-some to the Commonwealth, nor their numbers, and yet enough ; and those fitly distributed for the ease of the poor, as justice to both them and the rich.

That all prosecutions in the Law, whether criminal, or other trespasses, injuries, wrongs, or debts, be duly punished, lest the Land in general bear the burthen of particular offences, well knowing that there are abominations that bring desolation ; That the necessities of the Nation for War and Peace be levied equally and justly (and the expences in a settled way audited and allowed) and that not onely for, or upon man compared with man, but Township with Township, Hundred with Hundred, and County with County.

The great reason of many Counties not going about, or so long delaying the equalizing rates, as to Towns and Persons, was, lest the unjust interest of Parliament men, appointed for particular Counties, should upon the true value of one County appearing, hoist that up, and never regard the due ballance with others ; and therefore that the Law of righteousness ought to be above the Law of interest, must, as may be, be assured.

As

As for example, If a Town were a poor small Fishing Town, as great *Yarmouth* in *Norfolk* was, and not able to maintain a Minister, as it seems it was not, and that it had forty pounds *per annum* allowed for one out of the Bishops lands ; after it is able to maintain ten Ministers, and have but one or two, that it should yet have the forty pounds *per annum*, and other places starve ; to take this forty pound away, and make it pay duly an equal portion with others, is general and just priviledge, and no dispriviledge.

So *Dunwich*, *Rising*, and forty places in the West, to send Burgesses to Parliament, is a dispriviledge, though originally a due and rightly constituted ; for the reason ceasing, the Laws ought to cease, and such rechanges are our Settlements.

So ill Customes to be continued for Interest, and publike Grievances tolerated for private commodity, whether of men or Townships, as the unjust, illegal, and destructive keeping the so called Assizes at *Thetford* at the Brink of the County of *Norfolk*, in *Confinio Comitatus*, which is against Law, is a great dispriviledge; for it ought to be in the body of the County, or Head-Town ; but if that were seated inconveniently, yet this is unjust and destructive ; for so incommodious is the place, that the very issues lost there (the place not being able to receive the necessary attendants) are worth, or I am misinformed by knowing men, as much as the revenue of the Town is worth ; yet in driving on this corrupt interest against publike good, I hear good men and great pretenders are engaged.

And it carries little of weight, except for honorary interest sake (which always hitherto hath been an usual inlet to corruption) That the Judge, a stranger to the County, should appoint the place, or indeed that the place should be but fixed, except in cases of evident danger to the publike, as plague, famine, publike inundations, besiegings, devastations, or the like ; so that of two accidental evils (not things absolutely evil in themselves) the least might be chosen.

It is likely it will after appear better to take away the so called Assizes, as to Trials of general actions, and such controversies altogether hereafter, as being now become a burthen, rather then ease to the Subject ; for it is evident, the corruptions of those meetings continue, if they do not increase ; now such things, which were good originally, when depraved, are dispriviledges if after complaint continued.

And I wish therefore only I could tell where the priviledge of Englishmen were ; I know where it should be, and it may be found thus by parcels ; but there is so much rubbish and lumber amidst the multitude of Officers, Courts, &c. It is hard, but we will attempt, as briefly as we may, to offer at least, which will discover somewhat, though we cannot come through all particulars.

In a word Shortly then, Justice, and that both for Law and Equity ought to be in the proper County ; the Officers known, Fees certain, and not exceeding so much upon the pound clear dammage ; and equity ought not to be sought till Common Law determines the thing fit only for that Court.

Lastly, As to this, that no man be out-ballanced in Law, by power, favor, or riches, as Townships, Cities, and Corporations against a mean man, yea, if he had never a penny ; nor awed from seeking just things for fear of forfeitures of his lands, as Copyholders ; all of which I shall in their particulars further inlarge as occasion offers.

So that it is plain here, That having and executing just Laws justly, whereby publike peace and safety, against the Superiors, and between equals, and well ordering' Mannors and Estates, for publike peace, quiet, and benefit be observed, and renewed Laws, is the proper priviledge of the Subject.

But as to this point of safety, we must proceed a little further, and that is to look to the power of the Supream Magistrate in due providing for the peace and welfare of the people, both among themselves and also against others, not by way of Monopolizing Trade for benefit or gain, but security of the State : therefore its no dispriviledge of the Subject, that none should sell Ammunition or Weapons of any sort, except Swords and Knives, but such as are authorized by the State ; So also that no one keep an Inn, Tavern, Victualing or Alehouse, for that these houses are, and ought to have the Magistrate their Superadvisors, and an account from them of the nature and number of their guests, least any danger thereby arise to the State. And in case of error or default, the offender to be punished, and in case of inconveniency, the place to be dispriviledged. Again, Its no dispriviledge to a Free-man to have men attainted of crimes severely punished ; yea in some cases, not agreeably to the letter of the (at least

least present practical) Law. As for example, a person dangerous and oft suspected for criminal matters, as Robberies, Burglaries, Thefts, Cutpursing, and the like, is acquitted by the formal, ignorant, or packed Jury, for want of a clear, more then noon day evidence, which is now with Jurors, through the servile terrors of selfish Judges, expected; if such a one for the peace and welfare of the Publique be detained in Prison, made to work, &c. so one who hath had his Clergie several times; So of gallant Rogues, who live high, and can give no account how they come by their expences, to secure such is no doubt the great priviledge of the Subject.

These matters can never prove prejudicial to just or good men in a well ordered State; they tend to the well settling of any State; and although some may abuse such power against good men, sometimes; yet this is well known, That that is the evil of men, not of the power; punish the men, and appoint better; but necessary power must alwayes be upheld.

This may be much opposed by some whom I have found earnestly to contend that prisoners convict of Theft and Vagrancie, common Milchers and Pilferers could not by the Law be polled, that is, have their long haire cut off, no not when it hath been proved they have made that instrumental to their roguery. The Custome of old will not prevail, but their new fancy, that nothing of reason is Law, but what we have an adjudged case for; this must be maintained; for this is their *Diana*, who so sticke for Rogues; and therefore they will not do this; but advantageous customes are revived or created, though no better and less reason; thus they Tyth Mint, Annise, &c. Its no dispriviledge to be enforced to plant; yea, if a Law were to plant the North and West side of each inclosure with fruit trees, and the South and East with Timber and other wood; and when any Close were above four Acres, to have one row of Timber or fruit in or about the midst.

It were no dispriviledge to have all Commons inclosed and improved, a certain quantity only kept for the meer poore of the Town; nay its the only way to advance the Nation, provide assuredly for the poor, who now all are eaten out by one rich Clown; and make good roads for Trade, and take away the Nurse of poverty.

Its no dispriviledge to alter the Heathenish days of the Moneths and weeks, and idolatrous ones of Saints dayes, Feasts, weeks, &c. Nor to admit no Market or Fayr of speciall note, save on Wednesdays and Thursdays, so called, that going and returning be not at all on the Lords Day; No, nor to take away multitudes of old needless Fayrs in *England*, the principal end as practised, being only drinking and wan-tonnesse.

Its no dispriviledge, to have a Law, that no ground within a certain space of a City or walled Town be plowed, but all for pasture, except allowed, and that onely once in a set quantity of years by the Magistrate thereto appointed for necessity, and then not, except only for Roots, Turnips, and the like.

Its no dispriviledge to be punished for keeping Swine, or using certain Trades in the heart or great streets, or neer thereto, of Cities and great Towns; alwayes provided they be not tolerated under a rent or any payment; to be enforced to sweep streeets, cleanse Vaules, avoid Dunghils; yea if it did extend to the avoiding or purging the belly of other excrements then water, in any place, and not bury it.

Its no dispriviledge to have the Magistrate set a rate upon what can admit it, nor to punish the inventors or wearers of new Fashions.

Its no dispriviledge to enforce by Law to Tyle or Stake all houses in Cities and great Towns.

To conclude, a general Law can be no dispriviledge, nor any Law which truly intends publique good; the not equal administiring of that Law, is a dispriviledge; but then the fault is in the Judge, not in the Law, though it may prove very burthensome (as in times of Prerogative) nay destructive to a particular, which evil will and ought to have a speedy remedy by complaint and due punishment, not by alteration of the Law.

I come now to the last controversie of Priviledge and dispriviledge that I remember, that is, That men of such Estates shall not (keep Hawks) keep Greyhounds, Guns, Setting Dogs, Nets, and the like; many have questioned me what benefit we had by all our labours, hazzards, payments, &c. if this were practised, they had as live the Lord *Mastravers* should take away their goods, as the Justices of the Peace; but being

ing informed, what they did was according to Act of Parliament, what he did by meer power ; what he did was to break the hearts of the people, and fit them for slavery ; what the Justice did was to restrain the vanity of youth, and keep poor people to labor, that through the vain delights of sporting they might not neglect their Family ; what he did, was to enslave poor and rich equally ; what they did, was only to regulate exorbitancy, and looked only at inconvenience ; they all resolved the thing was just, they would willingly submit, and desired a certain enforcement of so just, so necessary a Law. 2. That trade should be regulated; which most assuredly, as to well working, making, fitting, and trimming of matter, is out of all doubt necessary, if not of necessity; but as to the times and places of sale, wherein one Merchant or Tradesman may outreach another, and may border upon particular interest, that is not so easily determined; only this the Supream Magistrate must take a note of direction, that there is two evils which to well settle a free trade must be provided against ; First, to loole a rule which is to place the superintendencie of power in the vulgar Artificer, which will at least end in confusion ; the next is too strict a Rule, giving the Masters of the Company as you may call them, such a power as they shall make Laws, and enforce the execution upon such terms as shall ouer all Freedom, but only in name ; therefore some general Rules must be laid down, and every County must have a Conservator of Liberties of Trade, to restrain from unjust encroachments, either of the poor by multitudes, or rich by power ; and this will sureliest settle the foundations of all Priviledges.

But there is one Priviledge more yet remaining, which is as it were the essence of all, or rather that which in the enmity of the world doth secure all the rest ; and that is, that the Subject himself (unless he forfeits his liberty) be master of his proper Arms, and employed in the settled Militia of the Nation ; For it is by too frequent experience manifested, that the constant use or generall imployment of Forreigners (or meer hirelings, though of their own Nation) is an introductory to pure or meer vassalage ; and surely you *Englishmen*, who think Arms beneath you, as most of you of late years have done, are only fit, (as men I speak it) to be the servants servants whom you employ in that so eminently powerful service ; And surely, the losse of a Nations glory, is, to enervate its Militia, by casting the honors of that imployment upon men unworthy such trusts, as if they and all other places fiduciary, and therefore more honourable, were only agreeable to rich men, which was done only to ease publick charges, and that made way for this publick ruine.

This I speak to, as taking it for granted, that the time of the lawfulness of warrs cease not among Christians, nor that it will, so long as there is sin and error ; and so a Magistrate ; for what the ordinary Sword cannot reach (yea the supream Magistrate himself in case he offend) The Sword of the Lord will. But I haife, and therefore shall not enlarge, but open this more by another Quere, which is,

Whether all Subjects have their Priviledges ? And whether, and how they may lose them and regain them ?

IT is manifest to all men, as it hath before appeared, that there are Subjects by Covenant, and Contract, and by power ; Nature gives like priviledges to all men ; but it gives them not like hearts to seek after them ; all accompt not priviledge the same ; yea, we hear of them who esteem it an honour to be slaves ; but we look higher then those Glo-worms ; there is no fire or light in their reasonings to us who say we have the Sun :

We therefore consider the state, first of men, who have joyned together to maintain or acquire freedome against Enemies or Invadors, and have been overcome.

Now here we hold them absolutely bound to the Law of the Conqueror, and count it not natural wisdom in case of utmost extremity of Tyranny to break out ; they can claim nothing of just priviledge, they are his servants, they might have been killed, and to make them servants was a mercy.

And truly I see no way for just (take just for a prudent) heading of these men against the Conquerour ; if for life, they have sworn obedience, what have been

the issue of such out-breakings, I pass not of ; matters of fact prove nothing, and this conquest without an Oath, if he uses them but as men preserved, ingages to faithful service untill freedom acquired ; their priviledge is to live.

And if an equal gets power over his own Nation, it is the same accounted, how unjust soever the ground of War first was. But in case of trust convented for, and submission granted, as to a Prince without Covenant, there it is otherwise. By this we now are come to just Originals of Government ; here I say the people, the body, or evidently the Conservators of the Trusts, or Guardians of the peoples Liberties, have a power to call to their aid, and vindicate if the Case requires, by Arms the peoples Liberties.

For here is rational subjection ; and that which is most reasonable in the single Government, is the Obligation of the Prince for his meer trust ; yet that reason must rest in the judgement of the Prince ; but this doth stretch no further then to things good, as in two evils the least is to be chosen ; but one man thinks this the least, and an other that ; and sometimes that which was generally thought the least, in the issue proves the greatest ; so in good, the Magistrate may think that, and the people this, but both evidently good. The Magistrate may settle either ; Now as the Magistrate is Judge of good, so is the Subject of evil ; that is, what is destructive to natural priviledges ; for this Subject voluntary subjects himself for well living, (the Subject to absolute power is onely to live) untill convention either by Petition or force ingages the Prince.

Truth is, absolute powers acquiring their power by force, have a law upon them, by God among Christians, light of Nature amonst Heathens. To do as he would be done unto ; but he is while he hath not engaged himself free ; but if engaged to man, bound to man ; and man if he hath power against that power may enforce.

It will be objected, Princes will then onely seek to hold by Conquest and absolute power, and never come to any Convention.

To which it is answered, it is agreed they will not ; for its easie to believe that men will not do what they never would be brought unto ; We see Christian Princes by Covenant seek absolute liberty ; yea, from the Oathes of their Coronation, which is the condition of the peoples submission ; and whereever an Oath is, the people are free Subjects, if the Oath be required by the constitutions of the Nation, whether the Prince thinks so or not.

Now this is plain to him allows he end of Magistrates to be the peoples safety ; so that the sole difficulty will rest upon the powers ; but he that looks well into the work, will finde that the use of power is originally Magisterial, or Magistratrical rather ; and that excesses of power, that is, that power which is not used and improved duly, is as subject to restraint as the failing of particular persons.

So that then the powers must look to improve themselves justly, both backward and forward ; behind it shall see the Subject free in Nature, and happily before his invasion, usurpation, or just defence brought him to vassallage.

Now then looking at him as a Subject, he ought to yield him protection against all men, and then due means of subsistence, that is, such as consits with the just safety of the Conqueror, not contrary among Christians to the Rule of Christianity ; alwayes yet preferring Self safety ; for undoubtedly we must agree, that if one hundred take one hundred and fifty, or but one hundred prisoners in War, and have three, or two hundred, or one hundred and fifty more come against them, and they can see no visible way of safe ingaging against this three hundred, or two hundred, but by the death of them before prisoners, they may slay them, yea in cold blood ; and they that have written otherwise, to aggrandize the mercy of a particular Prince, have flattered ; for in War (if anywhere) my own life is above that of the Enemies.

And if Occurrences so fall out that some do not such actions, it is rather the immediate working of Providence, then the reason of man, or Rule of legal Prudence ; for all know, the imprisoned will seek their liberty with the death of their adversaries.

And this makes many Conquerors hard-handed in the first generation after Conquest, till the State be settled ; and to give the due loose to these men after settled by Conquest, is difficult ; the men of the world are various in opinion, and much unsettled, they are at last forced to Providence ; and yet who shews what Providence is ? and vain it is to talke of Providence, untill we see what are the tokens of Providence.

Wherfore

Wherefore before I come to handle how particular men may lose their priviledges; I shall a little discourse of the tokens of Providence whereby a Nation may apprehend deliverances, and see whether there be any certain enough to engage a Christian in what may be called opposition to Powers.

For to a Heathen to have power to try the event for Liberty, is enoughto hold his conscience in suspence, till the issue to him manifest the present will of Providence; but to morrow he will attemp again.

But the Christian ought to obey for conscience sake the Powers, knowing there are none but of God; and that he sets up and plucks down whom and as he pleases; therefore Christians submit to Vsurpers in Acts just and lawful, yea to Tyrants; and being enthralled, they seek liberty justly, that is,

First, When God shall upon their Petitions stir the heart of the Prince to afford them their just dues.

Next, They seek help of their Conservators of Priviledges, if any be; but these are natural, and just to all men.

Again, These seek not out evasions for Rebellion, such as some call Providence.

Therefore let us see further what we can finde in Reason; Let a Prince come to the height of private wickedness, is this a sure sign God hath rejected him? No sure, let him err in many acts of Justice to particular persons; yet this will not do, simply considered; that is, if it stretches not to an universal end.

Now some would bound this to the life onely; that is, if the King, or any Supream, did not adventure upon the breach of Laws for safety of life, there ought to be no opposition.

Others make liberty, others call goods Priviledge; but all agree, that when he holds none of these, he loseth the nature of a Prince, and is an Enemy, a *Lycan*, a *Wolfe*, and with *Lycan* or *Nebuchadnezzar* to be driven into the Wildernes till they know the most High reigneth over all the Kingdoms of the sons of men, and giveth them to whom he pleaseth; and that no Tribe, Family, Linage, or other relation can engage a Duty, but he will incline all hearts, as he did in several cases among his own people.

Some Quere this yet if it were so; and surely God may do it for Judgement: But O Kings, Princes, and all Supreams, know, while there is a body joyned to a soul, your foul exorbitances will not be continually brooked; but you having led the people into sins with you, God will either punish you together, or one by another; therefore look not wholly to the ingaging the conscience of your people, while yours have no bounds; yet this is certain, Providence is allowable in difficult cases and doubtful; if we be *in bivio* in a streight, at a los, and Reason and Religion both seem silent, or speak not out plain enough, Providences following just means, is a warranting sign of approbation of the righteous God.

But in things evidently against the light of Religion, settled Law, and good Reason, Providences I say onely so (and most men expect no further) asfure not at all.

Yet if effected and settled, we must obey; but till then it is our duty to oppose, which clears us of Turcism.

By this it is clear and evident, That for any Nation to make an other its pattern merely from Similitude is no way warrantable; but their several conditions, in all regards, not onely of Nature, but of civil Reason, is to be considered, lest we swerve into the puddle of confusion, while we seek the pure streams of Government, walking upon the slippery bank of Providence.

These general heads passed, which will to some clear all the rest; yet to all men of all capacities to which general sort 'tis most fit for me to speak to, I intend this Treatise.

We come now to see how particular men in their own free Nations, may become absolutely bound, or more, or less.

Now to this it is plain, that as Nations may acquire power over Nations, so men over men; yet the generality of Nations Christian have avoided slavery, so called, of Christians; but why they should do it to others, is not apparent, except onely in the disuse, and that disuse come from the evil of servants multiplying to danger, as shall be made apparent afterwards.

But now, as some offences become dangerous to life, some to liberty, some to goods,

goods, and some to honor, some for a time, some for ever ; as the Law is, so are privileges of men, lost, or regained, and that justly ; As the *Romane Mutineers*, some banished into *Sicilia*, and never suffered to return, some but for seven years, some untill released by the Senate, as they were guilty in degrees, just as now they are by *Act* made uncapable of office for one, two or more years, or for ever at the liberty of the Supream Magistrate ; and surely such penalties will, if prudently improved, prove the greater incentives to trust and politique vertue.

Now as particular men are indulged, so are Nations, and by faithfulness or necessity, are incorporated into Free Societies, as Wales was with us, by which you have the wayes of regaining freedom made plain ; the justice of them is before discussed ; but the right of particular men, while acted in due course of Law, how ever usurped upon, affords little matter, at least at first to raise objections against the Supremacy of power.

This asserted, to clear all things, if it may be, we will briefly consider the nature of subjection.

*Whether Subjection and Obedience be due to the Person, or to the Power ?
Whether it be local or universal, and how conscience binds ?*

BY what hath been said before, it plainly appears, that the Law doth, and must distinguish betwixt the Office and Person of a Monarch, King, &c. and all other Supreams upon the like ground, by attributing to them properties incompatible, or no way agreeing with the person, not onely ubiquity and immortality, but also infallibility in their Sphears, that is, not to be able to do wrong, while obseruing their rule ; this might be enough to some men, if interests had not made us wise to destruction.

Therefore to the opposers we may seem to look back a little by resolving conscience more clearly, That the Interest of Princes (by all means seeking to avoid the eternal decree of altering Kingdoms at the pleasure of the Almighty, by setting up, and pulling down at his pleasure) seeking to tie the Subject to blinde obedience, as well in the universality, as particular persons, without hesitation simply, because commanded, is not held forth so much to assure the quiet of the people, as to exalt the absolute power of Princes, to the dishonor of God, and thraldom of Nations ; And as before, either power or consent giving this power, the same respectively may take it away, except it be a special Ordinance of God ; which few, if any, do attempt to make good ; neither can that Rule (upon any ground Scriptural or Rational, except God in Scripture giveth a liberty to things simply unlawful, which who dare aver ?) of obeying, &c, either by doing or suffering, be extended to whole communities, but to particulars, as aforesaid, because that Nature in the purity of it, intends universal good ; and if the whole body of the Nation agree in it, it seems to be very evident ; but in a knowing Nation, if the most knowing, it seems most reasonable ; but in a wise Nation, if the wisdom be corrupted through licentiousness, as to Gods glory it oft falls out, if the prudent of the Nation not carried away with these corruptions, agree it, and impowered, though not the greater number, it is lawful, but they cast themselves on Providence to support them.

An other thing in this must be cleared, that is, to satisfie interest (*viz.*) what is the power ? To which the Answer is at hand in a double consideration.

To clear the Cause, You must consider, that as persons, so Powers also may be unjust.

Now to the first, It is clear, that Obedience is due to the power ; That is, if an Usurper gets the Kingdom, while the true King cannot yield protection, you are to give obedience ; and if the Usurper requires an Oath of fidelity onely, you are to yield to it, that is, lawfully may ; but if he requires you to assert the lawfulness of his Title, it is unjust to ask, and for you to take, and seems onely a picking of a quarrel, to banish, or confiscate, or &c. which he may do by his power.

But you will say, what if the right King cometh again ?

I say in such a case, you in your place ought to seek the welfare of the Usurper (if behaving himself justly) and so not condemned by the community ; for I give no loose

to

to particular conscience, to judge of publick good or evil) if a Soldier by fighting for him, and so all in Trusts;

Then surely the Minister ought not to preach against him, though not for him, no not to hint such matters.

And if he that thinks the Prince driven away hath Right, comes under the Sword of that Prince, his oath of fidelity is not extinct, but suspended, until the right King hath totally ousted the Usurper; that Prince may put an oath of opposition to the Tyrant upon him, but it seems not just.

Now the reason of this is because God hath only appointed the Office, not the person, and power and convention are the means usual of acquiring, and God hath been seen in both; and man not to be wrecked or racked in his conscience, must submit when God hath determined.

Some men think the Prince is to be slain, and his posterity rooted all out; but these men plow with the Devils Heifer; from this opinion have horrible cruelties, murders, devastations, and inhumanities more then barbarous proceeded, and that among Christians, to secure their unjust and also just accusers.

No, it is far safer to determine his rejection by such a total expulsion, and make obedience so far universal, not so merely local after oath once taken; but he that thinks otherwise, and burtheneth his conscience with it, ought to abide by that particular witness, in doing what he can for the particular right he is engaged unto, until he either sees him refuted, and receives the recompence of his voluntary (I call it only so) faithfulness, or perisheth under the wrath of his Adversary, or being better informed reconciles himself, and submits to the power; now this is far more due in doubtful cases, or where two powers both lawful contest, or where a lawful power is of many persons, and part of them enter contest, and subdue the other; This, as I take it, is sufficiently cleared. I shall now proceed to clear other things.

Whether Common Good may be enforced against particular Privileges?

IThath been shewed that universal good of mankind is the first matter eyed in the rule of excellenter Reason, so called Law; next that of Nations; and in Nations under the prudential settlements of their own, the Rule is, Good is more or less good as it more or less respects or reflects upon the publique interest and Common Concernments.

Therefore, though the Spirit witnesseth that it was done by Prophesie, yet the reason of the high Priest went no further then Common Safety, urging that it was better put the Lord Christ to death, then the Romanes should come and take away the City and Nation; so the wise woman of *Abel* in the case of *Sheba*.

Now this is plain, that the life of a particular Citizen, is not to be valued with the safety of a City, &c.

But put case, that a Prince requires unjust things, or denounces wars, may the subjected Kingdom, City, State, &c. stand out? or if he requires the life of a particular Citizen, it may be him, in whom the safety of the place rests, yea if it be the King of Right; as *Jebs* demanding *Ababs* son, (it was before Crowned though in a Kingdom successively established) I say, it is meet in this case in prudence, to consult second causes thoroughly; they seem to do so; Two Kings say they stood not before him, how then shall we? And in case of extremity, they may deliver a just man, but not slay him (as they did *Ababs* 70. sons, that was wholly unwarrantable) life is the most precious.

Now to them that object they must stand out as long as they can, we say so to; but we may say prudence may avoid evidently foreseen dangers, yea with the danger of some just men, to save many just men, and seemingly unjust.

For this case also the estates of particular men may be digged up, high wayes made through them, Bulwarks, Forts, &c. reared, whereby property seems annulled, yet is only suspended; but though the Law with us agrees this generally, yet our so called Municipal Law seems to deny it in several cases.

First, though it seem to agree the Law as to Lands, yet it denies it to so called personal estate.

For

For suppose invasion, as for example, the *Scots* (having now many Emissaries laboring (in Pulpit and Press especially) a subversion of our new Commonwealth) invade *England*, the Governor of a Town may order erecting Forts, and for pulling down some houses in the Suburbs, &c. But for enforcing Moneys from him they know have abundance, and yet know no other means of supply, the Governor cannot do it, but by Parliament, he must be authorized.

But the reason is not thorow paced; for if Lands being the real estate hath the pre-ferment, why should the personal be better guarded? therefore to seek Cases for the reason is fruitless.

Truth is, that the difference is not as the one is personal, and the other Real estate; but as the one is more properly the sinews of war then the other, and more subject to be irrecoverably lost, and being private destroyes in search the Law of property.

Therefore we shall not state the case as the meer Lawyer doth, of forcing away money, but of imposing Taxes, as for the preservation of the place intrusted; And surely, though to avoid the usurpation of Princes in the Jealousie of Liberties, such resolutions have been; it is as lawful to lay just Taxes upon the estate, as to erect fortresses by the labour of the Citizens, and charge them upon Guards, Watches, &c. And to confiscate estates, or inflict punishments, and that to death, upon obstinate and deserving offenders.

And this must be, or the folly, wilfulness, or pride of some few, may be instrumentall by evil example, to render all desperate, as too oft experience hath plainly manifested.

But the truth also is, that the sufferings of particular persons ought in equal Justice to have some sort of compensation, those especially which come from the own party, and not from enemies; for a full recompence if in all cases, would but lay the foundation of Civil Jarrs for interest sake, in the purest Commonwealths, among men; and have therefore been avoided.

By this it is clear, that it is not so much the diversity of Reason, as of interest, that hath brought forth this seeming Law of contradiction, both cases being in time of eminent visible danger, war at the door, allowed and acted by prudent and Just men.

Now in our case let us see whether the Subject may be so disprivileged in time of peace; This will not extend to life, but to liberty and estate onely, or most properly; As for example,

Commissions to Salt-peter-men to dig in the houses, Cellars, Hosteries, &c. of private persons, and the like much Quarried, as almost every thing is in preparations to great alterations of States.

So the putting down of Fayrs, cutting up of Woods in places of Robbery, making Caulywayes through Marshes or Fens of particular men, yea forcing the sale of Lands, for works of publick necessity, or it may be of special convenience to the publick, as put the case upon the making of Salt, or to plant Sugar, or make Gunpowder, or the like.

Now there is no question, but they who have ultimate power, have the liberty to enact Laws which shall with equal Justice relieve the publick necessity, and satisfie the Right and Claym of the proprietor, yea though he were obstinate, not only not to admit the entry of his house, but also to convey away his Lands, without the scandal of *Ahab* forcing away *Naboths* Vineyard; for no supream Power can do that either for honour, profit, or private pleasure, without incurring a censure of unjust; onely the publick good, and that in a more then ordinary manner, can make such Acts lawful.

For though we may have salt without the Nation, and so Gunpowder and Sugar, yet these being matters essential to the wel being of a Nation within it self, may and ought to be, and will be provided for in a well governed State, to be prudently improved; And for Gunpowder, and such like, the State may assuredly become the sole masters of it, both for making, vending, &c. for such things ought to be in the publick Cognizance, or there is little assurance:

Not that I would open a gap to Tyranny; for let unjust Rulers know God will find them out, and their own store-houses shall be made their enemies Magazines, but to

to wicked men if they have power, you shall not need hint what is lawful ; they regard nought but interest ; for the Judge of this common good I refer you to the former *Quare* of the same Nature ; and having asserted that the chief privilege of the subject is just Laws justly executed,

We come to handle the due execution of those Laws, and *Quare*,

*How and where the Laws are to be Administred, and whether
in the Native Tongue? &c. and the times
of Judgement.*

I Find not any Nation in the world, but had ever their Laws in the Native Tongue, and in the due bounds of Cities, Counties, Provinces, or what you please to call them, except in case of Conquest, or absolute power, though not at present conquering, yet claiming by conquest ; and mostly admitting no gradual appeals, but at a jump from the lowest Judge to the suprem ; I agree an abundance of Reason in Grada-tions, and also of unreasonableness ; and as with us now practised, insufferable Tyranny and Extortion in most cases, while seeking Justice doubles the damage original.

We all agree walking Courts destructive ; and therefore our Ancestors got those of the Kings-Bench and Common Pleas made sedentary ; and wherein lay their insufferableness, but from the excessive expence of the suitor in Travail and attendance ? if so, then it is the duty of Judges in Chief, or Law-givers, so to settle judicatures, that the remedy be not worse then the disease ; and be salutary, not only for the wronged, but to the Nation and people ; for it is the duty of all members, much more the Supream ones of a Nation, to see to the evils and sufferings, oppressions, cruelties and extortions acted against any fellow Citizen.

For what is this mans evil to day, if once made but a president, will be justified as of Right against another man to morrow ; And if this be anywhere held forth in the Constitution of Government, it is most evident in a Republique.

We all agree the Law is our Rule of well living, and that each man ought to be punished if he transgres ; And the Law it self saith, That no man shall be excused for his ignorance ; And therefore Laws ought to be fitted both in the Tongue and phrase to the meanest Capacity ; otherwise the Law becometh a snare, as ours hath been too long.

And neither ought there to be so many, that a man may not well comprehend them ; and multitudes of particular Laws is but Civil Popery, as well as holding them forth in an unknown Tongue ; And sure in reason it is as great an error and obliquity to the body and estate, to speak to me the Law in an unknown Tongue, as to the soul. The open and evident reasons of this mystery is,

First, the *Norman* Conquest, settling the Law in *French*.

Next the *Roman* yoke, making pleading in *Latin* ; and the Reasons making good this, is the pretext of Learning, which as to the *French* part can never be approved ; for it is an antiquated Language in it self, now wholly disused ; and when used, then onely in one Province ; but ours is neither written, pronounced, nor understood, as that old Idiome of *Normandie* was.

And our Lawyers, to make it wholly private, have used all means to draw it into the form of a Canting, or Gibberish ; for it is punishable in Moots to pronounce in the true Dialect ; but we must use the *English* reading to the *French* writing, or rather *French* corrupted by ignorant Clerks, which rendred our books exceedingly imperfect, and even the best of them but by the fence not to be wholly warranted.

The private reasons are, first, this breeds difficulty, that contention, and that gain to the practiser.

The next is a quare one, and would Justice and integrity warrant it, might bear some weight, but there is nothing in the ballance against Justice but wind and dust; This Machiavellian reason is of the corrupt Court, *viz.* men by these private litigations, wranglings and contentions, are fired in spirit each against other, and so are taken off projects against the publick peace of the Nation; but a Christian will easily believe this reason heightens both publick and private vengeance.

Besides this blind reason makes no distinction betwixt poor and rich, just and wicked men; but put all to the Oare, and let them tug for Mastery, and the Lawyer sets on the bank, and with their labour is carried into the Ocean of so gotten riches; this I presume sufficiently evidences that the Laws ought to be without any question in the Native Tongue, plain, and few, and nigh at hand.

Next let us know how we should have them administr'd, wherein waving the private interests aforesaid, the matter will be plain; for it is agreed on all sides, That Justice ought not to be delayed, no more then denied, or sold; the Subject demanding this, had no more but Justice, when it was granted in the so called *Magna Charta*.

Now I suppose this delay must intend, not the customary time of lawing, but the due time, and that peremptorily, except in cases of so called Essoyn, that is, when such due case in Law appears, as all reason must agree there can be no proceeding but with greater wrong to the other party, then the stay can be to this, which is injustice; but the truth is, to have so many reiterated summons, formal and costly, for small causes, is, yea though it were Law, that is formerly so either established or practised, unfit to be so continued.

And in many cases, formal processes are vain, dilatory and ruinous; and the Subjects privilege is (that is just mens) to have all such exercencies cut off, and meet Medicine applied to the wound; the want of which, after so many Vows, Covenants, Promises, Engagements, &c. giveth spirit to the enemy, and sets an edge upon their reproaches, and deadens the hearts of all true friends to Justice and Righteousness.

Some Nations would never suffer the Sun to rise upon a crime unpunished, committed after the Sun went down; and so not go down before punished, if acted after Sun-rise; you must suppose complained of, and possible to be effected.

But the meaning is, their punishment was immediate; others gave three days, others fourteen days: Now the best men alwayes give the least time, yet enough; delays, whether in criminall or Civil Cases, alwayes are the nourishers of corrupt ends, if not perjuries; our Judicatures are for Civil Cases in some places weekly; but the business in formality depends a quarter, half, and sometimes a whole year; let there be justice done under a penalty: Now the trick is, delay till the Witness be gone, or hath forgotten it, or can be wrought off, or the Jury fit to the turn.

The Heathens abhorred what Christians practice, for the Criminal part; the Sessions are or ought to be four times in the year; but the now Lawyers are so afraid of their own Law, for it is so doubtful, that few but the Superior Judges (who by reason of their places must) do or will understand it.

And hence men for ordinary acts lie sometimes twelve moneths, two years in prison by Adjournments, and no penalty upon the Judge; for he is seldom evidently faulty, but the Clerks; no Commission to try him, or a defective one, whereby the prisoner is without all Remedy.

Next the Processes for the Tryal before the Judges, are not every mans purchase, and the appeal being onely to London, the charge which rich men and free men count nothing of, is to poor men destructive and unsufferable.

And we had need call for settled Courts and Laws, and the Judges to determine by a day, under a Fine or Penalty; for in Arbitrary ones, and so remote as London from many parts, and the Clyent must go himself, or his case is lost and

and undone, where orders are gotten to day, and then the party out of Town, revoked to morrow, and Order upon Order, Term after Term, and Judges sittings uncertain, onely when they can be perswaded together.

What is it but the Abyls of confusion, and that which threatens most direful plagues and judgements to the Nation? let the honour of the Nation be never so much pretended, yea though these acts were done to enemis both of God and men solely and onely; For pure and holy Justice is prostituted, if not ravished, nay is then made the Bawd to each exorbitant passion and affection.

Wise and Just Law-givers must therefore settle Courts in due and fit places, times frequent and ordinary, yea if it were every day, and enforce prosecution under due penalties; And in case of appeals (while appeals) which in respect of difficulties, and that of moment, may be betwixt persons mean and of small ability, that they be settled in due places, and ordered in such manner that Right may be done to the meanest, not as in the formal way of so called *Forma Pauperis*, and all the Proceses thence issuing, where the cause is determinable, all Dilatory Pleas excluded, and errors of course amended, and no error pleaded after issue joyned.

These are principal priviledges of free Subjects; but indeed the highest and greatest are least understood, or regarded by the many.

Now whether these Laws be admistred in the Towns, Hundreds, &c. is in the Supream Magistrate; surely in the County and in a due place there, both for convenience of Travaile, and Reception of Suitors, not in *Confinio Comitatus*.

The reasons for and against this, will not be worth the while, they holding forth nothing of moment, more then what is before declared; onely this, That by this means every County will have a various Law, and carried according to particular interests of places and persons; but this is not be esteemed; for we allow the Supream power the enacting the head Law.

So that the Law will be the same, though the dispensation may be diverse then as it is now, and ever will be; for bind what you can, a wise Judge will have or make to himself a latitude; but if truly wise, who will grudge? while Justice indeed is his onely ayme and end.

But to avoid such and the like Objections; If the Supream power settle County Courts, both for Law and equity; and admit once yearly itinerate Judges, to receive the complaints of Suitors against all other Judges; and for determining difficult matters in Law, after the manner of the now Assizes, it will take away all the grounds of interested objections against the necessary administrations of Provincial or County Jurisdictions, which some frame from the reasons of County, as Congregational, Independency, or their feares of introducing the Churches giving an Analogicall Rule, at least, of exterior Governement, to the Commonwealth.

Now having taken this short view of the Laws Adminstration, let us in the next place consider the Qualifications of the Law-giver, and Law-dispenser, whereby Justice may be executed justly, and how to be chosen.

Qualifications necessary in Judges; Who are to be their Electors; Judges Duties; and Defaults how to be punished, and in them concerning all Officers of Trust.

Judges in all their degrees are in the heights of Civil Trusts, they are the Pillars indeed of the Commonwealth; their general Duties are three.

First, to enact good Laws and just.

Secondly, to see them duly executed.

Thirdly, to alter them according to necessity.

All these belongs properly and more immediately to the suprem Magistrate; but secondarily, and within limits, and according to power all ought to act; like the wheels in a Watch, the one ought to move the other; but the first mover hath the special trust; for all move right or wrong as they do.

Now though the Judges be of several sorts: yet all of them in some qualifications hold a Rule of proportion.

As first they ought really to be fit for the work to which they are entrusted.

But this intimates plainly, that the higher the trust, the more exactness is required; and the greater strictness, upon legal enquiry, ought to be used in their both choyce and approbation. To settle humane things in a humane way perfectly, it is an error to conceive or attempt;

But to aim at the greatest height of perfection possible, is a duty; therefore in the first place, all in places of eminent trust, ought to be of full and fit age; first of full age; which is commonly reputed not under one and twenty years; for though a ripe wit may in the inventive part, in quickness of apprehension, and vivacity of spirit outgo another, yet in the disquisition of parts and settling the most convenient upon a sure judgement, to which experience is requisite, more years suit best, and are most approvable.

Now as too few years are light, neglective, and subject to rashness, so also too many years are foward, heavy and subject to wilfulness; Therefore the best rule is for a wise Commonwealth to fix an age, before which, and after which, no one shall be capable (no not with a non obstante) of such trusts.

Our Law, however practized, and especially in the suprem trusts, holds forth such a Rule; he that is not thought meet to rule himself, cannot be allowed to govern another; and if he cannot rule according to Law, how unfit is he to be a promulgator of Law? And the best way is to make such choyces absolutely void.

For the excess of Age, sixty is accounted a time to cease Arms, and betake to prayers. I prescribe not, but cannot finde a fitter. Nature may often shorten; She seldom lengthens that date with that Activity which is requisite in all such places.

Having done with the age, the next Qualification is ability, not of the body so much as of the mind; The ignorance of the Judge may be the ruine of the innocent; therefore it is not sufficient that a man hath been Trained up in the profession, nor hath been a Reader, no not if he spent one thousand pound in the Kitchin; but he ought to be wise among wise men, who is to rule fools, then so much more if he be to rule wise men also, who may offend; and prudence may reclaim when power is contemned.

The next Qualification is, he must be free from all possible obligations to injustice in any kind; therefore it was unjust in the King to seek such a dependance upon his meer will from the Judges, that they might thereby be drawn from the streight path of Justice.

And it is the same in all other supremas; It is truth there is an upright man whom no temptation can mislead; but we are to provide against errors; virtue needs no curb, the just man is a Law to himself,

Now

Now it is known, Dependance is various in its workings, according to the nature of the man depending; for a timorous nature may servilely do the Prince's Will, without any regard either to honor, or reward; but few ingenuous spirits are of that muddy temper; the great Misleaders, are Pride or Ambition, Revenge or Anger, Coveteousness or desire of Gain.

Now there are to be Qualifications requisite in every Judge against these; for these misleadings vices, or any of them, will otherwise turn the publike Ax against the private Enemy; there is therefore great care to be taken at all times, in all choice of men to places of Trust, but especially in times of the shakings of Nations, for then the wise man must save the City, how unthought of, how poor soever.

Now to prevent these, the wisdom of former Ages and Nations have all appointed a set and bountiful allowance for all Judges, which stirs up able and active spirits to eminency of virtue, (which can be never extraordinary, in a mere letter Law, where each Case particularly must have its exemplar) All Nations heretofore agreed punishments for Judges, and all in the most excellent truths, not only useful but of necessity; some went so far, through the fear of Tyranny and Oppression by men of eminent parts, that extraordinary abilities were obscured; for the complaint admitted no Trial, Banishment must ensue; after-times tempered this *Laconicism*; finding it was the laying open the State to many Tyrants and Tyrannies to prevent one, that the thing it self was the greatest Tyrannie of all. This last Age went about by all means to explode any question of Judges; nay, the Officers of Courts were so friended, that there was no seeking Justice against them; but of this more after.

In all Judicial places this is fit, That the Judge have his Salary set, his publike Fee from the Prince or State; now in this one word to this purpose (*viz.*)

The Judge receiving this Fee from the State, this is a publike Fee, wherein each Subject hath his portion; and the duty of the Judge in it is, equally to care for the interest of both Prince and People or Subject; for the end and respect of Justice is not personal but universal; for the qualification of not Covetous, it is of necessity in a Judge; therefore as before he is to have a due Salary; so he is not to take ought above his Salary, at least as a Fee: There is much scandal at this day in Christian Commonwealths concerning Bribery.

In Turkey it were no wonder, though till corruption through prosperity ushered in the way, it was a wonder, and a strange one among them; but that with them assures their fall near; for this is like a deadly sore, which if in the Judges, infects the heart, at least the prime vital parts of the Commonwealth, and then sure death must follow.

Therefore it is requisite to have this wound searched to the bottome; Some for this case have been so strict, that they would not admit a Judge to hold familiarity with a father, or a brother.

Some not to take a meale, nor any gift, though never so small; others have particularly set down what they may take; and that may do well if they peremptorily conclude that all not expressed is included in the negative.

From this I shall take liberty to exemplifie; It is not fit any Judge receive a New-years Gift, Gown, Cloth, Venison, Mutton, or the like, from any practizer at the Law, as well as from a Suiter at Law; for though I would not, nor can I asperse any in place of Authority, yet these things having been found evil and inconvenient, it is evident then that evil may be.

And as good men must shun the appearances of evil, so wise Magistrates must take away all things giving just occasion of suspicion; therefore it is necessary, not only to have these things settled by the publike Supreme Magistrate, but also published, that so each man may know his duty; and for this case it is thought inconvenient any one that takes a particular Fee of any man to be intrusted judicially; for many aspersions have lain upon Justices of Peace, Counsellors, whether deservedly, or not, I cannot affirm; but it is justly suspected, when they have been more fully informed of the Case, and pleaded more earnestly then the retained Lawyer for his visible Fee; but this is the present Opinion and thought of many, who also conceive it just, that a Judge attempted by Bribery, should complain to a Judge duly appointed, and the bribe-offerer convicted to be punished as well as the bribe-taker; for neither in the Politiques of Christianity will be allowed.

The next Qualification of a Judge is fearing God in the Law; in the Gospel it is the same, but hath many parts; for sure his qualification ought at least to be as high as a (supposed lay) Elder; then he must be in Church Communion, and not only not given to filthy lucre, but sober or grave in his behaviour, ruling well his own Family, (which now admitted, it is a hard matter to fill the ordinary seats in *Westminster*; for such is the looseness of all Government, that Government is esteemed harshness, cruelty, oppression, tyranny, and worse, if worse may be;) but this is enough to a wise man; only this, he must not be subject to Anger, that is overcome of it.

And it is the duty of the Chusers of these men, not to satisfy themselves slightly in these qualifications, nor of the people too readily to asperse; for unless defects be evident and notorious, Wisdom will cover on the one hand, and fear of punishment, if that be readily allowed, bridle on the other; for there will be such an awe upon spirits, that whom love of duty and virtue cannot prevail over, fear of vengeance will.

I come now to consider by whom the Judges are to be appointed; to which it is easie to resolve, That it properly belongs to the body Representative; none fitter in ordinary course, unless otherwise ordered by the Supream Power, according to the establishment of a Nation; for assuredly the chief Judges are the Arteries of the Commonwealth, and therefore a due and just dependance upon the Supream Power is requisite, but never would the Supream look to all administrations.

And if Judges be in Provinces or Counties as is due, not only the sedentary at the elbow of the Supremacy, but the chief in the Counties, ought to be at least allowed and authorised (though the nomination may be in the County) by the Supremacy; but that all be done in this kinde, by an open plain known publike Law, is most requisite.

Now before we come to the duties of Judges, we must shew the necessity of excellent Qualifications in Judges in point of due temper both of passions and affections; for it is before asserted, that the Judge must be bound by a head Law, which takes away the pure *Arbitrium*, and also to punishments which he may not exceed, and that both corporal (and that as well to restraint of Liberty, as Correction so called) as criminal or purf-paiment.

And this Prudence allows an extraordinary care in the due choice, or speedy care in removement of unfit Judges, which is that principally can free from diversity of Laws, according to the divers natures of men, in regard of which diversity of spirits as fierce and untractable, and quiet and meek, the Magistrate, as before, ought to have power above what is at all times and to all persons fitting to be used.

We have seen that the want of this, and putting men for riches, or Family sake, or other outward relations (as of breeding and the like, but no way improveing them) in place and honored with judicial trusts, yea though but a Justice of the Peace, hath made Justice it self either from weakness or wickedness disesteemed; whereas let nothing draw from the natural rational Rule, and you shall see Justice carry that due Splendor and Majesty, which properly belongs to those who bear the Image of Gods name in a more especial manner.

Among Judges, I also must intend not only Justices of the Peace, but Constables, yea and Jurors, who now are made of men of no esteem, and so justly disesteemed.

For Jurors, if they were but bare Judges of fact, yet in that they are Judges, and ought to have their qualifications accordingly; for estate in them it is necessary, because their disburthen is by dammage.

But as to other qualifications, respectively as others; for the choise of Judges, as the Supream ought to chuse the next immediate; so it seems to some, that the Judges gradually ought to chuse; but that favors more of form then substance; for the necessity lieth not in the Judgeship, but Supremacy, which if wholly in the order of Supremacy, devolves into Tyranny naturally, as on the other hand into confusion if wholly in the populacy.

To place it in the Judges, is solely to establish interest, which yet being most inconvenient, is to be waved with greatest severity and care.

And it seemeth best to place the choice of inferior Judges in some certain men of the people, duly qualified with due regulations of necessity to be observed.

One word to their duty, which will on the contrary evidence defaults.

The duty of Judges therefore is twofold; first, to hold forth practically as well as literally

literally the true and proper sense of the Law, and not to admit Formality, Practise, or Custome against the letter, while the letter holds forth ought of Justice, in the settled State at least; for that liberty brings all Laws into the mere will of the Judge.

Secondly, where they perceive error in Law, which gives just cause of exception, its their duty to declare the same publickely to the Spream Magistrate, with a fit expedient, whose duty it is to enact a due remedy, and establish the same accordingly, if upon inquisition the same be found just, otherwise not; and if they do not, they perform not the trust reposed in them; for the Spream Magistrate, though in the Democratike State (where most eyes and ears are at work, and jealousies be highest) cannot discern each dangerous obliquity in legal administrations; therefore they who are intrusted, should in their places consult for preventing evils as well as for remedying; and this is to have Judges as at first.

Their punishments cannot be prescribed but according to the nature of other offences, life with life, dammage with dammage, &c. But alwayes provided that the error was intentional, and except the guilt were notorious, to discharge upon Oath, but withall to lose his place.

And to avoid all scruples concerning Magistrates Elections, as also for making and enacting due and fit Laws, and knowing the errors of Magistrates in all places, that there be respectively fixed places and sure appointed into which it should be lawful for any man after promulgation of a Law, or nomination of a Judge, to set down his Opinions and Reasons, for, or against the altering, or annulling, or rejecting the Law or Judge, before the Law be established, or the Judge confirmed, with a mark, no name to appear to make good if required upon the mark, otherwise the note to be rejected; and these kept by some sworn men under strict penalties.

I shall not treat how far ignorance of any sort excuses; there is enough to hint the general reason before; I now proceed and Quere

Whether the execution of Laws ought to be all after one maner, and all Courts to have the same Jurisdiction, Officers, Proceedings and Fees?

AS to the Execution of Laws, provided the head Rule be observed, that is, life to answer life, &c. Assuredly the Magistrate hath the absolute power to mitigate or inforce as he sees occasion, (take execution for the way of punishing offenders in any kind;) but if you take it for the Uniformity or Identity of Law in all Countys, surely there the Law ought to be the same, if Reason be the same.

I dare not assert it of certainty to be of necessity that all Christians live by the like particular Laws; but I believe that as Nature holds forth but one light to men, and God but one Law to Christians; so that it is most clear, and the fitteſt way to avoid the ordinary jangles, as aforesaid, to settle that head-Law as our Rule, and to draw by all just means to the like conſonancy of Reason in the diſtributive, as in the conſtitutive part of Law.

And this doth not (as I in all humility conceive) at all clash with theſetting of Provincial Courts, while as before the whole Law flows from the same fountain of Supremacy in the head pipe of ſedentary order of Judges, or a fit number to over-fee the whole Nation by way of yearly Circuits, admitting, and determining Complaints, againſt even ordinary Judges, and that without or Fine or Fee, and determining matters difficult in Law, or referring it to consultation, after; but determining without further expence, and in a certain time; for as before, the Judge, and ſo all Officers publick, ought to be paid out of the publick purſe; But theſe Judges alio muſt be bounded what preſents they may take, and from whom.

This will silence all jangles, and the Englishman ſhall know his Law wherever he cometh in his own Nation.

Now as to the ordinary Courts, or Hundreds, it is requisite to have all Officers, proceedings, and fees alike; not that it is intended the Hundred Court ſhould have the fame with the County, or &c. or the Messenger that goes ten miles, no more then he that goes but two; nor he that ingrosses or writes ten ſheets, as he that doth but five.

But at a due known allowed rate for all, established by visible and plain Law, Publick, and in Print; and that in ſuch manner, that the long hanging of a Cause in Court, or

or multitude of Writs, or warnings of Juries should not advantage Officers, or as bad as amerce Suitors.

But that the Judge be fineable; let the prosecutor be inforced to proceed, or his Case dismissed with Fine for unjust clamor and litigation.

Next, all Writs or Processes are to be had in the County, and all returnable at one time, be it one, two, three or four dayes or weeks.

How Appeals are to be admitted, and false Judgements remedied and punished.

THIS seems to receive satisfaction in some foregoing Considerations; but in regard that all cannot be said at once, I shall shortly inlarge; Appealing (in this Question) is no more then the waving of the Court, and going to a higher, for so of necessity it must be.

This I must agree is necessary; but though I allow Appeals, I admit not the many gradations.

The reason why this grew so common, was, the meanness of Judges in County Courts, which was ordinarily put off with an Attorneys man; but wise men will suppose that the qualifications must be intended in righteous Judicatories, according to the trust; therefore we will suppose the County supplied with able Judges, &c.

I therefore Quere, what may cause an Appeal; may fear of injustice?

No, it ought not to be supposed.

But may greatness of dammage?

No; for the difficulty must be either matter of Fact or Law; for Fact, there ought not to be any removal; rather let such extraordinary Cases (if what need not be supposed, must be) be delayed, till the Itinerant Judges come down as now.

For the difficulties will be onely or specially in Criminals; for other great doubts are generally Titles; and surely they are customarily made more difficult then they are; however particular right of particular persons ought not to admit such publike hurries, though gain hath gilded fair the rotten posts of interested Reason.

But there may yet be Reasons of Appeal, as in Case the suit ariseth between one in the utmost bound North, with one in the utmost bound South, or in divers Counties.

Now this must have a Rule to settle in which County, as where the wrong was done, debt to be paid, or &c.

Or else in a certain middle County; in case of not observing which Rule, an Appeal ought to be admitted to the Sedentary Judges out of their Circuits otherwaies in, and to be determined at their return, (or by the Judges of both Counties, if adjoyning in the bounds of the County where the wronged person dwels.)

But these Appeals are to be allowed under the hands of the Judges of the County, when admitted, and so by them transferred to the Superior; and if the Appeal be not justly grounded, and speedily ordered, the Judge to be punished, for that he is the Author of delay; but if upon consultation the Case be difficult, there must be a Certificate to the Superior Judges of the truth of the Case attested by the Complainor, who must make it good within a set time, or the Appeal to be quashed, and he fined, but the Judges excused.

Now as to the remedying of false Judgements, most certainly Writs of Error were justly made use of and allowed, and the notion of false judgement for so thought good reason waved, and so complaints ought to be as aforesaid; but this must not attend the propounded Assises without satisfying the Judgment presently, yea though it be false.

Next no error but to be allowed before the Writ issues forth; for to purchase the Writ of Course, and Assign one Error or more of course this Term, then more the next, and then a peremptory day, and then Errors Cashed, is but legal extortion.

So that it is plain, to take errors totally away, is as bad as to have all allowed; but to prevent the mischief, let a certain day in Court be to determine errors before issue, and not after.

Now the punishments in these defaults, are and must be pecuniary, and that both in the Judges of Fact, as Jurors as well as Law; but where the default is evident, there ought to be a dispriviledging for future as to all publike trusts (at least for a time) but our

out of the Judicial place presently, yea though the oath be that he was onely mistaken in Law, and did not do it at all maliciously, or with a minde of injustice.

Now to oaths, it is fit any Justice of the Peace should give it at discretion; this requires able Judges, and so should Judges be; but of this more in due place.

Concerning what things the Magistrate may and ought to make Laws.

You heard before, that there must rest in some persons thereto designed, either by God, as those who claym to rule by absolute power, or by men, as those who rule by Compact or Convention, as who either had no power, but were meerly elected, and agreed with, having no Right primarily; or had some power, but not enough, and so condiscended to some rule, that they might rule assuredly.

Now this being in one person, or more, yet the power ought to extend to all things justly necessary to the well being of a Commonwealth; and therefore they have respectively the general powers of war and peace, life and death.

But because we have before hinted, that there was a necessity of the Magistrates regulating of those things which many men call dispriviledge to Christians as well as men, we will according to the rule before laid, that is of the head Law, according to Gods own Law, the God of Christians as of the Jew, see the Government of reason laid there down both for Divine and Civil worship.

Wherein first it seems directly given to the Magistrate, to have the ordering of divine worship to God under the Law.

Now let us see how this works; for *Uzziah* is a Leper for acting in the Priests Office.

Yet the aberrations both of Priest and People are laid to the Kings charge; and the good Kings commanding just things, and not onely so, but seeing of them performed, are blessed; and on the contrary, the evil Kings punished, and their Adherents: And those disobedient to the King, as (to *Abab*) the seven thousand that never bowed knee to *Baal*, were those who were to take root downward, and bring forth fruit upward.

Now the great difficulty is, to settle the Magistrates power so that he may not bring sin upon himself and the Nation, by commanding or tolerating things evil and unjust, or unjustly enforcing things just and good.

Now as to this, it is to be considered, that we all profels Grace is from Heaven, the meer gift of God, and that the Spirit breatheth where it pleaseth, as the wind bloweth where it listeth; if so, the Magistrate,

Yea grant there were a clear Church Magistrate, that were by divine Word impowered with the Sword of *Paul* as the Keys of *Petr*; could he go further then the outward man? it is plain he could not.

Next then, grant no such Magistrate, sure the Civil (or in case of doubt of Spiritual Power) the Civil Magistrate onely can act clearly; Now for the Spiritual Power to be helped out with the Civil Sword, surely it is one of the grossest vanities that Popery ever broached. God stands not in need of mans wisdome or power.

But God having not cleared that the implicit construction by Analogical or singular reason from the legall severity is proportionate to the gentle and quiet brotherlike Rule of the Gospel, nor agreeable to the Commission which our Saviour gives to his Apostles, which was either to the Jew, *Matthew* the 10. *Mark* the 3. and *Luke* the 9. or to the universality of men, *Matthew* the 28. *Mark* the 16. *Luke* the 24. and clear enough in that of the 21. of *John* and 15. where nothing is spoken of but preaching, and teaching, and feeding;

If then the Pastor have not the Sword but of the Spirit, let us see the material and Magisterial Sword which is not born in vain; what may this do?

If we look to the Jewish Model which many men seem so much to contend

for; There we see that the Magistrate had power over blasphemers, Idolaters, and tempters to Idolatry; witches, &c. and this extended to death, and that it should do so with us, is by them desired.

Now many suppose this difficulty, though very great, may be at least in great part assayed, if we consider that the persons to whom this Law was given, was a people chosen by wonderful miracles and wonders from all Nations, to be the people of God, and bear out to the world the Ensigns of his special love to man in all Ages and Generations; which tokens of love in obedience to his Law, were suited with answerable judgements in the neglect of the same.

And surely those things which relate immediately to God in the point of gracious service, hold forth nothing to us but assurance of eternal punishments to the unrepentant sinner. Saint Paul confesseth himself a blasphemer, 1 Timothy the 1. 13. and declaring in the last times what fearful and horrible sins should appear among men, 2 Timothy 3. 2. he takes notice of blasphemy and bids onely from such turn away.

Now if you would have a Magistrate to work without a divine precept, we must look at the height of improved reason; There we find that zeal for the Gods among all Heathens made blasphemy death; and surely reverence is due by the light of Nature, to what ever is called God; Of blasphemy under the Law, the Council was Judge.

Now the Sanhedrin was not of Priests; they might ask Council of the Priest, but determined themselves; and these by Gods Law put the blasphemer to death; many conjecture upon this, the Devil Aped Gods Law, others his delight in blood hinted the Law, as in Heathen Sacrifices; but sure such reason makes against these objects intended to take away the pure light of reason; for who that will acknowledge a Deity, will allow the Deity to be blasphemed?

But now the doubt is, whether there are not under the Gospel to be referred to the last Judgement.

Some believing, that if Paul of a blasphemer (and who ever was a greater?) became a Saint, a Preacher of the Messiah, who did and thought to do many things against the Name of Jesus (that is, against them called on his name) why may not any other be converted? where is Gods dispensing with the Law? where the special reservation of Paul? he did it not against the humanity of Christ but his Divinity; it was for calling on his Name.

Some excuse Paul because zealous; but others answer, so may any other be esteemed; who shall venture the judgement of the Magistrate for blasphemy? surely there is no word to warrant death for blasphemy, no not of one who hath professed Christianity, but the old so called Law.

But most assuredly, the Magistrate hath a great latitude, and may to some evidently and notorious inordinate liver inflict death.

Whereas he who onely from consulting over-curiously the God-head by reason, and not comprehending the Essence of the infinite verity and wisdom by his works, shall doubt, and so deny God his Power, &c. ought not nor can justly be punished with death by the Magistrate: but for such the Congregations ought to pray and endeavor, and if yet he cannot be convinced, living civilly and humbly, the Magistrate ought to wait with patience, using all due means, if so be it may be, that at last the Lord will reveal this thing unto him.

The same in a manner is to be the rule of Idolatry; for as the most horrid blasphemer will allow, if there were a God (for he is an Atheist) he would not blaspheme; so the Idolater, if this were Idolatry, he would not Idolize, and so not tempt to Idolatry. For Witches there is much less doubt; for most of them are drawn by malice to renounce God (whom then they must own) and damage men, either of which must end in death for death.

For Murderers, Buggeters, Burglars, and the like, are without question as capable to us of repentance as any of these, and then no one with Christians should dye for any offence.

And it is plain, as before, that in the Apostolical Writings there is held forth nothing of the legal punishments; Paul and all of the Apostles writing and bending their speeches to the Churches, who were faithfull, elected to be Saints,

Saints; and for the Sinners they were to reprehend and convince, exhort, and persuade, and for greatness of crime or obstinacy to cast out; And *Paul* for all other things leaves them to the Magisterial Power.

By which I presume it is plain, that offending against the verity and purity of Christianity, the Church ought to eject; and offending against the purity of Righteousness under Evangelical enlightenments, the Magistrate ought to punish, according to the Nature of the offence; that the Magistrate was to follow the Churches censure as incapable to judge of such crimes, is not to be moved; or that the Church could not meddle until the legal Tryal were ratified, is as contrary to sound Truth: Now if the Magistrate may judge, he may enact Laws as it is plain; from whence I conclude, That the Civil Magistrate hath the power of Right to establish Laws against irreligion, *viz.* blasphemy, Idolatry, and tempting to Idolatry, and that in some cases with death.

In Witchcraft without doubt, unless you shall distinguish in Witchcraft, as in the other between the witch that hath covenanted with the Divel, nourisheth Imps, &c. and does no harm to man in body or goods, and they that do, as in case of Heresie or blasphemous opinions, private and published, Idolators and inticers to Idolatry, leaving the mental and opinionative part to God, and the Active sensible part to man.

But surely this reason should as to Blasphemy, Idolatry, and Witchcraft, have been as well considered under the Law; for the Reason seems to be the same.

But to proceed, under the name of witches I comprehend Enchanters, Poysoners, keepers of familiar spirits, and all that have entred any actual Covenant with the Divel, be it by word or writing.

Now that which evidences to me most strongly the power of the Civil Magistrate, in and concerning these matters, is, that they are called works of the flesh; which to the judicious Inquisitive, will plainly denote the light of Nature might evince them of the contrary; for they are deviations from the pure light of reason, to blaspheme a God, to worship or allure to the worship of a stock, or stone, or Image for a God, or to make a league with the Divel.

But if you ask whether I intend this Doctrine universally as laid down; I cannot agree it.

For first to Heathens I allow it not, as abhorring the inference of propagating Religion by the Sword.

Next I allow it not to sober civil doubting men; for absolutely prophanes and perverse scoffers I yet beleive, and cannot see to the contrary but that their blood is upon their own heads; As in case of Murder, breaking open of houses, &c. and what else the Law doth punish mortally; this gives much more liberty to men then heretofore: But what if as *Paul* preached *Diana* &c. to be no gods but the work of mens hands; That a Turk should preach publickly the Doctrine of Jesus Christ to be a meer fancy, and blasphemy; In this case as a Turk let him be forbidden; if not obeying, let him be banished.

How can a Christian Magistrate to witness his zeal to his God, and his endeavour to establish the peace of his Countrey, do less?

But if he be a Christian that thus Apostatizes, the rule is limited before.

But the best way is, where there is just doubt, the Christian Magistrate is not to go to the height and rigor of life, but to seek out with all wisdom, a due remedy answerable to the light of our Gospel-profession, and not cease till a rule were set.

All the other power of the Magistrate for the well living of men, might easily be included in Laws concerning Magistrates superior and inferior, and people, and those either living in Cities or Towns, or private families, whether of parents and children, Tutor and Pupils, husbands and wives, masters and servants, for all contracts, houses and lands, bargaining and selling, &c. words and deeds, man and beast, night and day, as in warding and watching, peace and warres, as the ordering, charging, trayning and paying of Souldiers, as also punishing of them, health and sicknes, providing for the poor.

But some Judicials which are alterable, may I suppose now seem necessary, which former Ages disallowed: As for example:

The Battelling of houses, lest any should fall from the roof, so the double portion of the elder Brother.

And some just and rational Law instead of the so called Clergy, for a safety for such offenders as it shall be thought meet to allow it to.

But a City, is dangerous, lest a multitude of evil persons might prove obnoxious, except the strict Rule of its Government in the settled inhabitants, may bridle the exorbitancie of such evil Guests; the Law concerning a woman with child, whereby her fruit departs from her, and those who procure Abortion, by open force or private violence.

Now although it is plain, that all Errors of Christians ought to be reproved with much care, and with all Christian information; yet these sins which are so plain, are to be plainly enforced by the Civil Magistrate; but those others which are tending to the service (not dishonour and blasphemy) of the Almighty, ought to be with much Christian persuasion reformed, not by power enforced; for though I must agree, the Magistrate may enforce an Atheist, and so a Non-Conformist for fear of punishment to the Congregation; and he may be there converted, for some undoubtedly have been;

Yet we cannot thence infer, that the work is of duty; he uses indeed a means which reason is capable of; but to enforce by pecuniary punishments, much more corporal, is most assuredly so far doubted, that it is not suddenly to be acted; for what is for you to day, is against you to morrow, as the Supreme Magistrate varies in opinion, which Law is then without its certain Rule; and that for which the Magistrate can give no certain Rule, is not to be made by him a Rule or Law at any time.

For the Magistrates making Laws in these things which tend circumstantially to the service of the Lord with Christians; I intend the matters so called of indifferency, surely therein is the Liberty of Christianity, and the glory of it, is, not to be tyed to the Apish formalities of Superstition; conformity and uniformity have been made the great wheels of Satans Chariot, to hurry us from the simplicity of unity, Christian Charity and Faith, and is to be exploded the Congregation of the Faithfull.

Now to clear the Magistrates power as to his Trust in, and concerning both Tables, the matter is plain; the Offices of Magistrate and Minister are distinct; as a Magistrate, he cannot intermeddle with the Ministerial proper Duties, but with the Minister he may, if he neglects his duty; and that is no more then that the Minister by his Office is not freed from Civil Judicature; And so, though with Uzziah he cannot Ministerially dispence the Ordinances; yet he may and ought to see the Minister do his duty; this is according to the Law of God, and of this he may be judge;

That is, he may consult, and punish, and so enforce, (and both these Offices may be in one person,) I shall not enlarge concerning this any further, but now proceed in the orderly settling of the Commonwealth by due and necessary Administration of Laws for Civil peace.

But before I come to particulars, I must a little generally enlarge my self concerning the power of the Magistrate, and his duty, that is, that the Magistrate hath all power, and is to execute all power in all things of what nature soever, conducing to the safety of the Commonwealth; and therefore that in some cases conscience cannot be pleaded, but notwithstanding all such pleas, due punishment ought to be inflicted.

To give Examples of Murther, and Adultery, Incest, and the like, will be plain.

But for Concubinage, and the true Polygamy, or many wives at once will be difficult with many men.

Yet these sure, if made general, being but the restraining of the natural appetite, and most consonant to the hinted Doctrine of our Saviour in those words, It was for hardness of heart, only that Moses allowed it, it was not so from the beginning, God created them male and female: The Magistrate, may justly and lawfully improve his jurisdiction; but to extend it to death; as hath been used, was assuredly not so obviously warrantable.

But

But to embroyl a Nation in War and blood, or lay a foundation to it for not agreeing in the manner of exercising the Ordinances of the Gospel, that cannot be allowed.

Such as marrying with a Ring; at the Table with a Communion, to receive it sitting or kneeling, to administer it in the morning or at night, with a Surplice or white garment, with all the like, that it must be done only in the publike Place of publike Worship, so called Church; and this to prevent Heresies, &c.

Surely it is natural to each man to believe his own opinion right, and that he is educated in, the natural man without further controverie allows; however he practises clean contrary.

Now it is certain, being all born in sin, and under wrath, there must be a work of God upon the Spirit before we understand the things of God; this God doth ordinarily by Preaching, Reading, Praying, Conferring, Meditating; sometimes by afflictions with these; sometimes by an extraordinary accident, as delivery from an unexpected danger, or seeing some great judgement, or sudden plague in and upon other men; a thousand wayes there are whereby God preaches to a man.

Now accordingly as the Spirit is affected, so usually is the man zealous or remiss; and assuredly in such changes God is seen and glorified most, as are from very bad to very good, as *Paul* from a Persecutor to become a Preacher; and here the world takes most offence.

It is true, the Angel of the Church is not to suffer the woman *Jezebel*, nor the Doctrine of the *Nicolaitans* to take root in the Church of God, but to labour with the Sword of the Spirit (not with fire and faggot) to reprove, exhort, admonish, persuade, convince; and the Magistrates ought to exhort the Congregations to their duty, that men so qualified be ordained Elders in all the Churches, and that they do diligently and faithfully improve the gifts given them, to the edification and peace of the Church, and the gifts ceasing, to see others appointed in their places.

And the Pastors are to see the disobedient, and perversely refractory to be ejected from their Societies.

And the Magistrate may approve the Rule of the Congregation, that no other Congregation receive them ejected, without satisfaction to them who ejected, first given.

So that if you take the exhortative, intacing the just duty of Christians, from Christians in the Christian Magistrate to be the keeper of the first Table, he may be so called.

But if you take it for the person properly chosen by God, to maintain, assert, and defend the truth of his Service; the Magistrate hath a share in it as a Christian, if he be such, and the Pastors the like; a special share, in regard of their more immediate trusts; but this keeping of the first Table, is a Right belonging in my opinion to the whole body of Christians, and every member may claim his due.

The Magistrates, even while pretending to it, have been the greatest oppugners of it; witness the persecuting Christians so called, Kings and Princes in the Church, the so called Clergy drawing in the same cord; witness the cruel Massacres and Persecutions the Pope and Bishops have raised for the same pretences; and all we believe against the Truth; so that it is manifest these did not keep it; who then kept it?

But they who had no Magistrate among them, and seldom a Minister so called to instruct them; yet were the rite of Gods Service kept by them as by the seven thousand in *Israel*, when King, Bishop, Priest, and all worshipped *Baal*. I now hasten to the Settlement intended; wherein I shall begin with Education of children.

How Children are to be Educated by Magistrates Authority.

THe Lord God took care for the meat or nutriment of special children, even in the Womb;

But ordered every Mother to give her own child suck, presupposing that riches and honor were but subservient to Natures ends; but this strictnes now accounted, though the Magistrate might exact it where it could be, or punish its neglect,

Yet assuredly to inforce it in this our Age, were to debilitate and enervate the Nation; for our rich people are generally so luxurious, that if the weaknes of the decayed stifled generative vertue choaked with excess, were not opened again to operate more acutely through another kind of nutriment in the poor Nurse, they would all prove Changlings to old *English* Valour, though in such a soul the splendors of Christianity may be as excellent, as in the strongest, fairest and healthiest constitution.

This I hint onely to intimate, at least to Professors, what a duty is upon them to repress these excesses, which are so ruinous to Nature, and ought to be punished; Natural men have out-gone most Modern Christians in these vertues.

My aim is at the manner, not so much of educating babes, or so called children, as youth; that is, from seven years to eighteen at least, if not one and twenty, or better five and twenty.

Now to this end, I suppose, that it is the duty of the Magistrate to Erect and Authorize, at least, in the head-Town of every County Schools of Vertue, that is, fitted with Masters to teach and instruct the youth, according to their Ages and Capacities, in Arts and Arms; I mean by Arts, Trades of all sorts and learning of all sorts, according to Rule; This provided, that it is not intended, that all children should continue meerly learners till five and twenty; and it is supposed that the present values, rents, and profits, of, and belonging to Inns of Court and Chancery, Universities, and Schools, will serve for this work; however so far that the defect may easily be supplied.

But that they should not be accounted men till that age, nor to manage their own affairs, much less of the Commonwealth, but be under Guardianship.

And by Arms, I mean all the exercises of the body, whereby strength and agility shall be increased, courage raised, and yet being under a Tutor obedience nourished, and Prudence established; for these Academies or Schools, it is requisite to have their Rules grave and strict, but not ridiculous, not such as flat Caps after so long disused, nor Cappings of so called Fellows as was in Colledges though the rain pour down, but to order such due respect as breeds an aw with love, wherein there must be necessary severity, not rigid peevish Tyranny; the aw must exprest it self in a due silence, as well as active diligence; for the expence of spirits is great in clamorous, nay talkative youth; and sure, would quick and ripe wits not vent so fast, their store would last longer; this makes many pregnant young men to be old dotards.

Let these have discreet Visitors, or Superintendents, who once every moneth shall come and view the progresses of the several years, and a penalty set, and that seriously; this due training of youth will enable them to rule in season; the want of knowing due obedience in Education renders most men unfit to govern; by this means the natural abilities of all men will be tried, and the vertuous eyed as fit for high imployments, the care of Parents will be quieted, while their children are so nigh, as once in a week they may easily hear of their health and sickness; and the nighnes to the Parents will aw the child from such extravagancies as youth is subject to at all times, but most when they are far from them, whom Nature teachees to fear by degrees.

The habits of these Students I inforce not that they be all alike, but that none be trimmed with Velvet, Lace, Points, Ribonds, or such fooleries; none to wear long Hair, Rings, Scarfes, Fringes, Roses, Weapon or Boots; and that due and civil respects be observed among themselves, according to their degrees; but no fancies of Custome to be allowed, as Salting, Mustarding, or any such lightnesses, nor any trials of Wit or Strength, but in the presence of a Master.

Thus shall both poor and rich be fitted to the service of the Commonwealth, idleness will be banished, and ignorance despised; for all that were capable should to these Schools for a time, till dismissed to Trades, for necessary living by the Visitors or Superintendents; for prayers among them early and late, it is necessary; but let

the hours be apportioned for Study and Exercise, and let each day be Catachistical to the knowledge of Christian Doctrine, as Moral or Civil conversation.

But you must admit no Colledge-School, or Academy, to have any Priviledges of separate Jurisdiction, as now or formerly, they are, but the inciters to Debauchery and Riot, with great emulation and disturbance of the Peace; The Magistrate must command; Let no door be free from the knock of the Consuls Ax, it will make some heady one or other at some time or other to lay the foundations of chusing Tribunes of the people.

Let onely their obedience to the Law be their priviledge and security; onely let the Tutors be free from personal service in War, or other service in Peace; but for payments, let them be charged upon him according to his Rate.

Let the books of Learning be publickly appointed by the Magistrate, not at the Tutors will; let not all be inforced to Latin, but each to Read and Write in some measure; Let times of rising be set down, and also going to bed, and some certain times wherein the children may recreate, but by parcels not all at once, which now is case of great confusion rudeness and disturbance.

Let the Masters interchangeably have times of respit for extraordinary occasions; This will speedily give a large increase for knowledge, which will make that your Magistrates in all places may be men of knowledge, which will embellish the Commonwealth; whereas now most Cities, Towns, yea I may say Countys are despised in Government for default of prudent knowing men: Along Robe-man or two guide all, and in this Age of interest, and these mens interests so visible as aforesaid, all is let run to confusion.

And by this will also the several Congregations be fitted with able knowing Pastors, and Teachers; yea honest virtuous emulation in ingenuous spirits, will render almost every Member a Doctor.

This is seemingly a matter of great charge; therefore before I proceed, I will see how charges are to be born, raised, &c. And the relief of Commonwealths in excessive burthens of people.

*How all the Charges of the Commonwealth, Fees, and Fines, &c. are to be
Assessed and raised, and by what Rule.
And the ways to ease Nations when grown over-numerous.*

I know that many will say this is good in Speculation, but the Practise is difficult, yea some will say impossible; for you cannot get all men of one mind to it; others that it is against Priviledge to inforce children from the Parents Tuition, who being Guardians by Nature, the Law will not, may not, admit any Rule to bar his Right?

Others, This is a matter requiring great and vast expence, and how shall it be raised.

To the first I answer; If the Magistrate hath power to make the Law, then duty ought to subject all minds to unity in obedience.

To the second I answer, That this is so far from dispriviledging, that it is the highest, yea the top stone of Liberty; I dare not say it is not possible to abuse or misuse this power; but if rightly used, it is the extent of Priviledge; for may a Magistrate make a Law to keep mad mens children, to educate Ideots, Lunaticks, and the like, and dispose their goods, to the necessary use of their Family, which all Laws of Nature and Nations allow?

Who art thou then Queriest? if thou dost it thy self, thou wilt grant that must be by allowed means and lawful wayes.

I say not That there cannot be just causes of Negation, but I say Submit to just things in their Seasons, it is your duty; and deny unjust ones when time of trial comes, that is your duty also. This takes not away your Guardianship of Nature, but makes your load lighter, especially when and where it is greatest; for the most poor and ignorant are most like to bable and wrangle such intendments; for the charge, I confess its great; but the great Lett will be, if you settle this aright, the rich must pay for the education of the poor, and the barren of them that have children.

For I can allow nothing of a Rate but by an equal pound Rate, and that on all the estates

estates of all persons, and that not onely for Wars but for the poor ; for maintenance of Ministers, yea for Bridges, Canwyayes, Highwayes, all publike Meeting-places, and that both for Divine and Civil affairs ; if you settle it no higher then Counties at first, it may do something ; but in a young or begun State, it is requisite to cast all into a lump ; were Righteoufness obvious in the disposers, it would easily be assented to.

But now the fear is, and Objections are, if you do thus, the Parliament men will look to distribution of parts most unequally ; and they that are best friended shall have the best proportion, though they have least need.

As now in general Leavies, The Towns and Counties are most free or burthened, as they have active Parliament men, Committee men and Justices of the Peace to stand by them.

Therefore first it is requisite that each man shew forth integrity in his actions, cast away selfishness ; own in deeds what you profess ; be not deceived, God cannot be mocked ; The Heathens at the preaching of Jesus, yea the Wise men, they that used curious Arts, brought their Books of great price and burnt them ; come and do likewise with your advantageous interests of all sorts ; you are all a Nation without scruple, though no National Church. But you object further ;

This Nation hath lost its Politike Rule, it is overspread with multitudes of men, nay multitudes of poor ; so that to take care for the educating of all these, is, you say, wholly unfeazable.

To this I say, That no Nation, if not plagued with War or Diseases, but naturally it will grow over-numerous.

Now the Magistrate Supream ought truly to know the contents of his Territory, and be as able to lay out the possible subsistence of his Subjects, as the wise Grasier, to know how many beasts will be depastured in such a ground, or how much seed will sow one Acre.

These are the Mysteries of wise Regiments, which few Princes or Magistrates now adayes, if at any time will study, but it is their duty ; for from not well considering these things, Nations which might in ordinary course live quiet, being grown over populous, whereby the due care of inferior Magistrates is obstructed, they grow loose and lazy, then swarve into crimes ;

Then complain of neglects of duty of Magistrates which is evident ; then interest gains head, these make parties, and then the State is either embroiled or altered.

Therefore if the Princes will in the use of the wisdom God hath given them to Rule by, Rule well and safely, they must once every seven years number their people ; if the Accidents, I must so call them, of Plague, War, Famine, &c. hath not done it ; and either by opening a fit way publikely known of easing their Counties burthen, by settling them in an other County ; or if all Counties be full, by transporting them into an other Country avoid this danger.

This Act of Numeration well used, will take off the jealousy to what end such matters tend, and the well and carefully providing for the Colonies will encourage Adventurers ; This will enlarge a Nation infinitely ; and if well carried on, will by just means so settle Christian interest, that great, if not universal, will be the propagation of the Gospel.

Now we send away Rogues ; then you may send away Preachers, Teachers, Scholars, Masters of Prudence, in respect of Christian and Civil knowledge.

This fitted, you see visibly your charge cannot be so insupportable ; you look at the Commonwealths corruptions, as now wholly sick, wholly defiled, this frights you ; but let your speculations mount higher ; it is not *Utopianisme*, it is Christian wise order ; all you that look for Christs Reign upon earth, labor after it.

I bid you not sit down by this, this is rational, yours is divine, this may be, it hath been, yours may and is to be prayed and attended for patiently ; and if it heightens you in the active part of more exemplary conversation, who will oppose it, let him first live above you, and then teach you, not upbraid your opinion.

But surely all the Taxes, Charges, Levies, Payments ought all to be set, assessef, and paid according to one set Rate ; so that each poor honest Countrey man may immediately resolve his payment, and in case of Refusal, the Officer may know how to leavy it, namely by distres ; and all to have one time, and till that time be past, the

Magistrate

Magistrate ought not to issue out his Warrant, and then upon a Warrant the Magistrate superior to be sued, not the Officer for levying it; for no reason he should be questioned or molested (much less undone as now) for executing the commands of his Superior; for it is agreed the inferior Officer in legal Administration ought, and so may act, not question; otherwise each Officer might delay; and therefore it is justly constituted, if he denies and takes upon himself the knowledge of the Law; if he mistakes he is highly finable; and his Fine, and all other Fines, and the Fees, and Salaries belonging to all publick Officers, ought to be so Assessed and leavied, &c. And where no distress is apparent, that is, no goods in the house, be they whose they will, or denial, and they either delay or by denial, imprisonment till payment, if able to pay.

I must in this case also remember, That it is fit that no person as no place be franchised from payments; for if one may be, all may be, except only as necessity enforces, and then to endure no longer then the time: Kings and Officers have made great advantage of these injustices, to the insupportable damage of the Nation, and ought speedily to be rectified; and all Grants, Charters, Usages, and Customes to that end to be void.

So have some Lords of Mannors, holding originally of the Crown, as it is called, as of the Dutchy of *Lancaster*, got such priviledges as they are called, which ought not to be, nor may by just Law; for that such priviledges are dispriviledges to the whole Community, opening a door to injustice and irregularity, and consequently to bondage; for all may be freed from charges, taxes, services, and the like, as well as one; And to say it is to be presumed the Supream Magistrate will not do it, is vain; they have abused themselves, and many subjects much, who have paid largely for such grants; and after the Princes have been forced to plead they were mistaken in their Grants, and the poor men have been left remediless, for their purchase money.

In the last place it is fit that all visible personal estates be rated as they appear; and people visibly rich in Apparel, House, Household-stuff, Dyer, &c. be esteemed as they esteem themselves.

Now the end of all Fines ought to be the defraying of the publick Charges of the Nation, City, or County, and the Offices there respectively; and to make these certain by composition, must be as experience hath manifested the inlet to greater corruption and abuses; and though other Ages having seen the evils of the old way of composition-evil, deserted that, and therefore gave Fees at large, presuming they would take their salary, and fees besides; yet it is manifest it was the evil of bad men; for the other is the best Law; and punish strictly, and fear not, you shall have Justice exact.

The Magistrates Power and Duty as to ordering of Families.

THIS Power hath divers objects, as between the Husband and Wife, Parent and Childe, Master and Servant, and so contrarily, and also the Master of the Family and Strangers.

It is very requisite to be very wary in the head Law; the Lord God only gave the power to the husband generally; Now the exercise of that power in the Jewish state was Tyrannical and absolute, and ended generally in divorce; and what needed any inferior Law where the head Law was so Magisterial?

But this being either obsolete in it self, or made so, or both (and really the Lord Christ's words intimate no separation, except only for Adultery; and that exposition is the foundation to many as they suppose justly not to make Adultery death; for if so, what needed divorce, but this is omitted here) and we proceed.

Let us see what is the Law of the Gospel; truly it teacheth a duty and obedience beyond what the rudiments of the world enable unto: Our Common Law seems to me in something too divine as I may say; As for example, it will not admit what we evidently see (*viz.*) that a man cannot rule his wife; there are women which will offend the Law against the will of the Husband; and indeed it is visibly not in his power to help; they will not only sell and give his goods, but break, spoyle, mis-spend, &c. They will some beat the Husband, some cruelly mis-use the

children, &c. and no way to punish them, but the good man is answerable for all.

I know the wretchedness of many men, but there is a little weak Law against them; Let us also have some Law publick for the women with that tenderneſſe is fitting to conjugal Societies; but there must be an aw in ſome one or more Magistrates, even to bridle ſuch exorbitances and neglects on either ſide, and make due a provision in all caſes, and that wiſely and ſpeedily; or Divorces (indeed as uſual) will be muſtiplied, and from thence Fornications and Adulteries clandestine and private, make what Laws you can, though a legal divorce may be waved.

Next as to children, there is no due aw and reſpect of or in ſome, nay many Parents; the duty of the ſeſe of education is wholly loſt; there is nothing but rude and exorbitant looſneſſe; not only Parents curse Children, or provide not duly for them; but Children the Parents; and for want of a head Rule, no question is made more of this then violences in any other relations.

Now in caſe of ſuch Rule, it is fit to proceed by a more particular Law; for if upright knowing zealous Judges be not, there is no right; therefore it is fit to make these Laws Oeconomical more particular then others.

Again, as to Parents neglecting the due provision for their family, the Magistrate is wholly beaten out of it; The rule ought to be, that the Magistrate might take cognizance, what a man can earn if employed; next that he and his be ſet on work; and thirdly, that he doth not, nor shall miſpend it, but that the house-rent and all be carefully diſcharged; and then where labour fayles, to be ſupplyed by the publick Purſe.

Next for ſervants, not each one that will to entertain ſervants, unleſs viſibly able to maintaine and imploym them; for otherwise there will be many ſluts and more Thieves, with multitudes of Receivers, which the Law can take no notice of.

This Law muſt extend to all ſorts of ſervants which have not estates to maintain themſelves viſibly; otherwise there will be from the neglect in one, a viſible careleſneſſe towards all.

Let no ſervant under a penaſty be hired, but with a publick inrolment in the Town or Precinct Parishional, or otherwayes; however neither diſmissed, or to go into another Precinct without License of an Officer in Writing; this is the Law of England at preſent; onely careleſneſſe of Magiſtrates admitted pride to grow too fast in ſervants, and then all was omitted, and this is a main inlet to Confuſion.

It is alſo fit ſtrictly, by a ſworn Officer, to keep the Records of the Birth of Children; for the Age is now groſly miſtaken, and no ascertained way of probation, with a ſmall fee, as a groat to the State to pay the Officer for enrolment, ſo much for ſearch, ſo much a Certificate.

For that of Strangers, it is to ſettle a little better the power, not only of the Maſter of the Family in general, but particularly of thoſe who either by profeſſion, are Inholders, or others like them, upon other accidental occaſions, who now are by ſome perſons made ſervants to their Luſts, and have no power to bridle exorbitancy that they can know; for to ſpeak once for all, it is not enough ſome wiſe learned book-man knows all theſe Laws, or if all the ſo called Lawyers did; the Christian Law muſt plainly and perſpicuously hold forth to every man his certain known and auſſured duty and power in their reſpective places; or the guilt, be it blood or otherwife, I fear lies eſpecially, if not wholly, at the Supream Magiſtrates door.

Whether the Magistrate may appoint the Ages of Marriage?

And to whom the Work of the Marriage belongs properly?

The Government of the Family being settled, let us see how they part out of the Family; and that is commonly by Marriage; It is agreed, the parents did at their own Liberties dispose their children; by natural reason (corrupted I conceive) they against Nature exposed their children, not only to the next hand of man that took it up by a settled place for that purpose, where they that had not the blessing of children of their own bodies, might take them off others hand that had many, which hath reason in it, and undenyable; but their exposings were to meer fortune, as they called it, that is, let the will of the Gods be done, let the Beasts devour it, hunger or cold or both starve it, or the merciful hand sustain it and nourish it; but these are wholly rejected with us; the way is to sustain them till fit for labour or Marriage.

Now that of labor is generally hinted before, none may be brought up idle.

Now for Marriage, there is much to be said; The general plea is, the Magistrate hath no power to set an age for Marriage; The reason is generally, that there are divers times wherein Nature works with men and women; and to prescribe one certain rule for all, is unfit.

Next, it is the Parents duty to take care of that.

Lastly, the gift of Continencie is of God, and not of man; and the Magistrate hath no power; the first and last I shall couple together, and answer them thus.

It is truth, divers men and women are of divers tempers and Constitutions, and therefore one time will not agree to all; but surely the matter is not whether all men or women shall marry at one age, but that there is a duty upon the Magistrate to preserve the vigour of the Nation by seasonable Marriages; doth it not much more concern us to breed a generation of men fit to manage beasts, then to breed beasts fit for management?

This natural similar reason is of some force; surely there is too much looseness in this our Law, to allow Copulation at twelve in the woman, and fourteen in the man.

Now the disquisition of the other part concerning the gift of Continency will resolve the whole; for I pray you how is the Law of Liberty and Continency to be pleaded? may the Child marry without the good liking of the Parent? Can the Child plead to him that he hath not the gift of Continencie? or do we rather know it is the looseness of Government, the evil of idle unclean education both in young men and Maids, that inflames affections? The young ones are ignorant of what is sin, and the eldest often, and they fall into contagious offences each with other, before they understand the rules of wise Reason, being led away of natural appetite; and notwithstanding all incentives, the father is allowed to dissent from the Marriage of his son or daughter; and in case of disobedience, to chastise with stroaks or disinheritson, or both, the son; and it is done to the daughter; But should the son that had stoln the daughter bring an Action, or the married son, could he justifie, or not, by the Law?

I profess the case is difficult; for if lawful, why beaten? if not lawful, why may not the Magistrate set the rule of restraint to Naturall appetite as well as the Parent? the publick as the private Magistrate? for by paternal power and Jurisdiction he enforces.

Now the Christian Magistrate therefore upon the whole may and ought to bridle this beast in man by a discreet Moderate Law, to restrain the Lusts of proud, rich, lazy, idle, and so lustfull young ones;

And take of the itch of mean ones, by work, and labor of the body and minde, or both, with slender dyet, and holy exercises, Divine and Spiritual breathings after

God, in the sense of our own weakness, will as well restrain exorbitant affections in Christians, as the love of Philosophy, or the fear of the gods, so called, could Heathens; Let us not therefore eat to lust and live in idleness, and then we must martyr, O we burn.

It is as lawful from that reason to have many wives, many husbands, or diversity of men, or women, in the accidents of sickness, long journeys, and the like of yoak-fellows.

The Modern Age is wholly loose, through pretence of Christian Liberty; that is the undoing destructive principle; and it seems by many who out of zeal against humane wandrings, go about to eclipse the glimpses of divine inlightenments, to be fit totally to be rejected; but both must stand: a just Liberty with a due restraint, that Justice with Righteousness be in all.

Now as it is rational, that the publick Magistrate may temper the liberty of the child, not to marry till a season; so after that season to mitigate the Rigidity of the parent is as necessary, many parents being extream and cruel, forcing them to marry whom and how they please, or not admitting Marriage at all.

I know the difficulty of these businesses hath discouraged, but Christian piety ought to advance endeavors in this kind, yea in some cases to portion moderately children dutiful and obedient in all other things, and permit them their own choyses, if nothing can be objected on the parents part but meer will.

It is also fit to resolve the degrees of Marriage; for late Liberty hath made Quæries concerning a just and Regular Law.

And to see all this done, the Magistrate is the onely fit man.

The Act is meerly civil; it is old Popery acknowledging Marriage a Sacrament, that onely continues it in the Clergie so called; Therefore let no Marriage be solemnized, but before one or more publick Magistrates thereto appointed, inrolled or recorded in a book of purpose, with their hands, and of the Parent, if living, or Certificate under hand and Seal of the Magistrate where the parties live; otherwise of the Guardian, unless they be of such an Age as is fixed by the Magistrate, or they be married by Magisterial Authority, that is, though the Parent before refuse, having no just cause; alwayes resolved, that if a Magistrate offends, or Rasures be and alterations, that the punishments be exceeding high.

Who ought to be Guardians, Tutors, &c.

Surely in this the so called Law of *England*, Common Law I mean, as before-said, provides excellently above the Civil General of Nations, so called Christian, by placing the next in blood to whom the inheritance cannot descend to be Guardian; and the duty of his Account is well regulated by the other part of the so called Law of *England*, namely the Statutes.

But the Heir in *Capite*, or by *Knight Service*, being in Ward till 21. the Heir in *Socage* but till 14. the Heir in *Burg*. *English* but till he can measure cloth, tell Money, &c.

These Ages and Tenures breed confusion, and difficultly can a plain honest illiterate man know his duty; therefore let one time be for all Ages, *viz.* not under 21. And till then let them not dispose by will or otherwise, nor ought be paid out by the Guardian but necessary expences, according to the proportion of the Estate at a fixed rate, not above.

Let the Guardian be appointed by a sworn and also answerable Magistrate for the value; And the discharge of that Guardian, or any Guardian by Nature or Nurture, as to any estate accruing to the Infant underage, so they be visibly responsal at the time, ought to be as good as any mans of full estate; and as to them that are visibly unable, or evidently debaucht, indebted, &c. then the person or persons that are to pay, ought to pay it to the publick Treasure of the City or County, which ought to that purpose be settled, to be paid at full age to the infant; and in the mean time 5. l. per cent. and no more, or four, as the chief Magistrate shall see reason to enact.

And for successions in inheritances to real Estate, let it be in case of the death of any brother, &c. as the Magistrate shall agree, whether all to the next of the whole blood, or the son of the second wife to succeed before the daughters of the whole blood.

Or

Or in case of division, a double portion to the Eldest, and the rest equally divided ; the division to be made by three persons, one chosen by the Eldest ; a second by the rest ; they two to chuse a third man ; and for personal estates all to be equally divided, and the division as to value to be settled, who ever be intrusted to the ordering of the matter before ought done, besides burial of the dead only decently, and paying of debts.

Whether it be requisite to have Cities, Towns Corporate, &c. And they to have Priviledges and Laws ; And whether all ought to have like Priviledges, and the best Way of trial of Laws, or probation of Laws, and by Laws ?

After the youth be grown to Age, they are to become sharers in Trusts, and Duties, and Offices of the Commonwealth, some in the Countries, some in the Cities ; for the evils of Depredations, Thefts, Roberies, &c. did at first necessarily cause men to gather into Societies and Companies ; and the same end of safety in time of War, to have strong places to retire to, is still ; and the same necessity did inforce Laws diverse from the other places of the Country ; here were Taxes for repairing of Walls, Bridges, Defences, Watchings, Wardings, Pavings, cleansing of Streets, Common-Sewers, and the like, which were certain ; hence the taking people infected with the Plague, &c. from their own dwellings, and removing them into places specially appointed according to their quality ; hence men are liable to Laws of convenience, temporary, or ought to be, and that for peace sake, which saves life absolutely, healths sake, and trades sake, which are but comforts of, and for well-living ; but most assuredly Cities being necessary and Towns,

It is necessary, and of necessity to maintain and allow a necessary distinct Law within the Precincts, not as Franchises against Law, but of diverse Laws according to the necessity of the place and the trades there driven.

Now the Laws of Cities, &c. though they must, in the regards aforesaid be diverse, yet in respect of their proper nature, as bodies corporate, they ought all prefixedly and positively to have those Laws set and known, and a due enforcing power in a speedy way ; for the standing out of a man in a tedious suit, cools all obedience, as Experience manifests clearly.

Therefore draw and settle the Government of these places by a head Law ; the Charter-Grant is but the foundation of Bribery and Extortion, Nurcery of Prerogative and Arbitrary Liberty, and fit to be avoided ; Experience hath so evidenced the Truth, that I cease to contend, and only assert.

This head Law must distinguish Inn-land, and Sea-Towns and Cities ; for the other Laws respectively, they are communicable generally one to another ; only the particular Regulation of Trades, which must have special power well settled to regulate the exorbitances of the Artificers particularly.

And to that end they must, both Cities, Towns, and Companies, have power to make By-Laws which are to be approved ; Now to that one word, to the probation of Laws and By-Laws, which being respectively for the Nation, Cities, Towns and Companies of publike concernment, and what are of particular use, may have a general influence ;

Therefore it is requisite, after a defect Seen, to propound the defect and remedie, which the then chief in Trusts respectively, for City, Town, or Company, think fit to the City, Town, or Company ; That being done, the same to be promulgated for a Law, if allowed ; but not so to be received for a short set time, during which any Citizen, Towns-man, or Artificer, is to bring his Reasons in Writing against that Law, and propounding a better, or offering expedients to remedy visible evils, and only leave their Reasons ; Then is the Supream Officer to cause them to be searched, read, and debated, & if great difficulty arise, to take the opinion of the Judges in Circuit appointed, who are to determine the difficulty, or the Law, as appointed by the Magistrate to stand ; if they find difficulty, then to state the Case, and present it to the Representative of the Nation, who are to discuss and allow the same ; always provided, that for Regulation sake, from one moneth after need seen of a Law, and promulgated by hanging up openly in several the eminent parts or places of the City, Town, that Law to stand

stand though not so good, till another Law be established by them or the Supream Magistrate; for better an evil Law then none at all.

No Law after once established to be questioned by particular men, which enervates not only the particular Law or Priviledge, but tends to confusion; and as no City nor Town, so no company ought to be without due Regulation, nor any person, but in and of some Company, Decree, or Order settled and known.

Whether, and how Customs are to be admitted as Law?

Custom hath necessarily been accounted part of our Law, and that rightly as to the Rule; namely, That no Custom is good unless the same be reasonable; yet this admitting of Custom among Christians is of the prophanie Apostate Church, and Commonwealth; for by this Rule the whole Family, Township, City, County, Nation, may, as we have done, live all dayes of our life under evil, wicked and pernicious Customs.

Therefore the Magistrate ought to admit nothing to be pleaded as a Custom, untill allowed by certain Judges, who allowing, or disallowing the Custom as reasonable, that is justly to be used, by not onely men but Christians; the same is equal to, and is indeed the Law, temporary, or settled; for a certain limit, or more generally, or universal, as the nature of the thing is; this will avoid the engendring of all sorts of corrupt, envious, and self-seeking Customs, and cool our greedy, devillish upholding of them by manifest and open perjuries, and the like.

Then that all particular Customs of particular places be inrowled under a sworn Officer, and published in Print, and a Book kept in every Town or Precinct.

What is the Magistrates duty in all Orders of Government and necessaries thereto; And first, whether the Christian Magistrate may admit War?

THe Magistrate ought to provide for the well-being of the Nation, or any part thereof repectively according to his trust; so let us consider the evils which may disturbe this well-being, and that arising

First from open war; secondly, from private force; thirdly, from deceit or fraud; and lastly, from difficulty: Let us a little discourse therefore of war; and whether Christians may war?

Surely, the Church, that is the Congregation of Saints are militant on earth; but that opposition being against spiritual enemies, Satan, lust, pomps, vanities, &c. are not the subject of our discourse; against these there is no Quare; they must war; and these are enemies both outward and inward; and though the children of God will not, cannot war among themselves, yet there are false brethren, such as go out, because they were never in; Hereticks so called, Deceivers, Liars, and all such as are cast out of the Church.

Now for these I still humbly conceive, that we must look at the nature of the offence; for if it be meerly mental, opinative, and internal from the souls mistakings, but not degenerating in actual scandal; the weapons that are to be used against these, are meerly spiritual, which are mighty to the beating down of all the strong holds of sin, and overthrowing every thing that is not of God; and against such, I suppose no outward force, yea though you suppose or beleieve them firmly to be Hereticks, may or ought to be used, so as they disturb not the Civil Peace.

But a case will enlighten somewhat; Suppose one doth beleieve, as many are said to do, the abolishing of the Sabbath, may the Magistrate enforce obedience?

To this I say, that he that holds the abolishing of the Sabbath, held a Sabbath was, and then must acknowledge the power whereby that Sabbath was, and so the end to which it was directed, which was the ease of the creature from corporal labor, and for his edification in the service of God in the Spirit; This gives no loose to any Jocundrie that day, no Sporting, no nor idle Tatling, Walkings, but the Spirits Recreations in the Contemplations of Divinity ought to be the repasts of the Soule.

Then assuredly the Magistrate may hinder this, and cause keeping within doors, and punish offenders; Therefore let not the Gates of a City be opened that day, but to such

such as pass too and fro, and are known, and that to partake in divine and spiritual services, and that not above a Sabbath dayes journey ; and agree that, but dilate not twelve moneths what is a Sabbath dayes journey ; but within the private Family there is no inforcing of the Magistrate ; that is, he seems not to be bound to it, nor is his power evident.

No, the better way to know the care and diligence of the Master of the Family, is, to appoint some men, not as Church Officers, but Civil Inquisitors of Knowledge, who may see the progress in Knowledge of such as are out of the Schools and Colledges, and punish, or cause them to be punished at first ; and afterwards the Parents and Masters ; and not to admit to places of Magistracy, such as are ignorant themselves ; so neither those that do not carefully educate and instruct their Family, whereby they may in their season become serviceable in the Congregation of the faithful.

Now this war of Hereticks and profane persons being over ; let us see what is to be done to those without the Church.

I say to these, That these also as the Religion wherein they were educated, are to be permitted their Conscience without force ; suppose them Papists, and suppose them Idolators, suppose them Turks, and suppose them Heathens ; for unless by the pure light of Nature they must or may see it, that is, it be evident and perspicuous ; I take it, Reason, Divine or Humane, corrects not, notwithstanding that Parable of the Servant that knew not his Masters Will and was to be beaten.

Now this is evident ; for among all the clashings amongst opinions untill now, where was it not, that every one strove onely to free themselves from the power of others to be inforced, yet would inforce others ? but now I take it to be the infinite Mercy of the Lord to reveal this thing unto us that see it, how many do not ; that is they can see nothing but confusion accompany it.

Now as to the other part of Papistry, though claimed as part of Religion, *viz.* That the Pope is Head, &c. and may dispose Kingdoms, dissolve Leagues, Oathes, and remit obedience to powers, and that because he hath said it, there is no faith to be kept with Hereticks : All or any of these being contrary to the peace and safety of a State, may be enforcedly renounced, and the parties denying justly banished ; I say not their goods confisicate ; for we know many do conscientiously hold these things, and with great strength of Natural Reason, as much as maintains the greatest pretending opinion in this Age, and now in contest with us ; And in case of Resistance War is lawful.

So that in brief I take it, War is lawful against the Enemies of the Church, Spiritually with Spiritual weapons, against the carnal enemies with corporal weapons of Banishment in case of destructive errors to peace and civil quiet ; and warlike force, where the State and Nation cannot otherwise in Prudence secure it self for the entring the others Country or Limits.

First, To make that the Seate of the war, where other things are clear, the Law of Nations whitch admit it, will well settle it.

*What Arms or Armies be ought to use, whether his own
People or Strangers?*

Assuredly, the necessity of Arms being preservation ; it were indiscretion to put that strength into a Strangers keeping ; Experience hath proved it unsafe ; and Religion will count it unlawful to employ an other about that which we count simply evil.

Next, onely to keep the people from delight in blood, it must be Civil or Divine Knowledge must do that ; indeed there is a shadow of exception in the Law, which prohibits Butchers to be of a Jury of Life and Death ; but that was, I suppose, because most of them were of mean and servile condition, and so ignorant ; for assuredly the killing of beasts makes not a man careles of the life of a man in a judicial way ; it was the office of Gods High Priests ; though it may in the way of a particular quarrel ; next Souldiers for never so many battels are not debarred the being of Juries.

How the Militia ought to be settled.

ALL Humane Laws have their settlements, and of themselves naturally devolve into Error ; so that if we eye all the wise settlements of Nations in this or ought else, it is nought worth now : The *Jewish, Romane, Grecian, Egyptiun*, or other old or Modern ; the foundation yet of most of these, being originally Regal and absolute, held one course to engage, as our *William* so called the Conqueror did the great men to an absolute dependance upon him, and by them to vassalize the residue.

I know many godly honest people see no such thing; I believe it, God gives gifts variably ; but most certain it is such dependancies are the Nurses of Feuds and Jealousies; If therefore you will settle the *Militia* aright, you must suppose your Nation or Jurisdiction at terms of Unity among themselves, under no great and eminent civil broyl ; for then none on the adverse party to them in power, or justly suspected, that is openly opposing (by purse or person) can be for a time entrusted; but otherwise the power must be in the dependance in the Supream Magistrate, and their active power by his general Law.

That is, That all within their Limit, from twenty six, or twenty eight, &c. to sixty, seventy, or &c. be chargeable to the War ; that is to say, They that have not estate to such a value, to be in inferior services, as *Pyoners, &c.* And of this let the inferior Magistrate take the ordering care.

Next, All that are of such an estate, to be charged Foot-Arms : All of such an estate Horse-Arms, that is, *Dragoons, and Light-horse*, as the estate is.

Now as to this, and to all Rates, it must be known that there will be multitudes of Querries arising : some have great estates fit in proportion to find ten, twenty, thirty, forty, fifty, a hundred Horse ; some in respect of great and vast real, others vast personal estates ; some have their lands lie altogether ; some dispersed ; some live in their own, some in Cities ; some have great charges of children, poor friends, and decayed, some in debt, and some have granted out Annuities, Rents, &c. and have outwardly a fair visible estate, but indeed and really small.

Now in all these there ought to be a Rule of proportion with safety to the whole ; for first, it must be agreed, that the Commonwealth consists of real and personal estate ; the real estate House and Lands, the personal estate Goods and Money.

Now this is certain, that all Land must have stock, all Trades must have stock, it is visible ; therefore the rule of Charges of all sorts must be the Land and the Stock, and that whether in City or Country.

Now for discharge of this, it must of necessity be either theirs whose visibly it appears to be, or others.

For Lands, in which there is so much more then Turkish Knavery, if it were inrowled wisely and justly, it would prevent much ; but due punishment would take it all away, while impunity breeds offences, that controversies, that gain to the Officer ; and therefore is mercy, &c. cried up so.

This Land, and this Stock is the subsistence of the Nation ; I know Corruption fears discovery of estate ; for either they are rich, and would conceal it, or poor, and fear undoing : Now to nourish either of these corrupt interests, is destructive ; the last is most to be eyed, but least to be regarded ; for though some good come of it, yet it is the most dangerous ; for from hence comes all the stock of Bankquerups, and the sudden un-doings of many esteemed rich men ; and indeed it is most unchristian and utterly unlawful for a man knowing himself poor to borrow or buy at a day for what he visibly and certainly fees not he can pay, though such may have thriven.

Therefore allow no discharge, either for rates of Assesment of Moneys or Arms, contrary to the visible estate, but with certain knowledge of the owner ; only this is fit, that for Assesments for the visible personal estate abatement be *per rate* as for land by the hirer (all the Objections are answered before as to personal estate ;) and for real, let it be charged as it lies in the Counties.

I say not in the Towns ; it is best leave that at the discretion of the Commissioners, or Judges for Arms, unless a general settlement by a standing National Law be ; only let such rents, &c. as are going out bear a proportionate charge of horse or foot respectively, as the said Judges shall under Hand and Seal appoint and Record in their Muster-Book.

For

For to say it once for all; all these Jurisdictions ought to be settled, and to be the Records of the County.

Now I presume you will not find a better way for the present settlement, then the owner to be at the charge of the Horse and Arms, the Tenant to find the keeping of it, labouring him reasonably, so as alwayes to be ready for service; and if he dyes not by negligence, but sicknes, or in Military service, the owner to find another, otherwise the Tenant, and the Training service by the Tenant also; for all service more then for meer Trayning service, ought to be the expence and publick charge of the County at lealt, if not National, which is more just; then one County shall not bear all the burthen of war and charge also, as is too frequent; and for price of horse, lest the owner and Tenant differ, let a set price be so much for a Dragoon, so much a horse of service, and this price to be set yearly at such a day.

But finding in divers places where the lands lie, will ease some part of the just doubt of the great mens over-powring the County by purse and power, but nothing will avoid it wholly, except it be enacted, that no one man find above 6, 8, 10, &c. horses or Arms; and that for every one that he is in proportion of estate chargeable above that number, let him pay so much yearly as shall be settled to the publick purse, or for the easse of some particular service; but better all to come to the publick purse either of the County, or of the Nation.

Next, all Arms are to be owned the Nations or Publicks, yet to be in the hands of the particular persons charged, unless disprivileged. Next, these Arms must be imployed in War by fit men, and even to Christians it may be so requisite (if it be not simply unlawful) to administer a Military Oath of obedience to the Officer, according to the Tenor of the Commission of the Officer, or General, of faithfulness in his trust; for though just men and vertuous are true for honest sake, yet the evil will not, but the fear and conscience of an oath will reach far with the worst of men; And so to the Souldier respectively.

Let this, and the reason of the disuse be well Quæried.

Some presume the best way of settlement is to charge so many Arms only upon the Township, whether horse or foot, or labourers in the wayes or carriages, and all to bear their equal proportion; now this generally may be good, but the particular rule wil vary every moment; either or any of the wayes may do, so the Commissioners as they are Judges, do justly; for all Laws as Governments are not so much good or bad by Institution, as by Execution; to this end it is fit as most think, to give a general Oath of faithfulness in their trusts, although they agree it true, that the generality of men are just for Righteousness sake, oath or no oath, they are the same; And so on the contrary; but in a Commonweal, in the State that *England* is now in, it is fit to make Laws of this nature, probationers for a time in each County, and by due returns of what is done (which is so required, but neglected, for that in all things its noted only from all **Acts** and Ordinances, and Instructions earnestly required for a day or two, and then rejected, which is a great oversight in them supreamly concerned; for it is visible, all men are by this beaten out of the road of settled obedience, and spin out time to attend the issue; and that falling out as of old, they will never be forward to service after; so for service in Arms, the forward appear, the other slack; so in Asselments upon the true value, the forward pay to the utmost peny, the other half, no punishment but talking, no, deal gently; thus is all sense of obedience to Powers and Authorities destroyed by the Powers themselves, and their self-ended Agents, seeking to make parties; for one such time and person-server shall in this corrupt Age have more followers then 20. honest men.) But I return to my task, If the supream Power have due returns, let them see and judge out of the severall experiments made, what is fittest to be the general head Rule, and way of the charge of Arms; Its visible in our condition at present, the generality of the Nation are unfit to be entrusted; but for accidental evils there can no particular remedie be well prescribed: the general Rule wisely executed must be the top stone under God of the safety. Magazines in the severall Hundreds for the publick Arms of the Hundred, or the chief Town adjoyning, or such head Town, or Town of defence in a County, to be the Magazine of the County: these have all their objections, yea in a settled state, all or any may be useful, and in a distracted one may prove destructive: now the difficulty is but to find out the best as we must say for the present temper of the Nation: for its certainly true, to settle unity, love and peace,

and root out the jealousies and acerbities which are risen in a Nation ; its fit to have all the same general Law ; the Supream Magistrate ought so to administer Law, that it be the same to all his Subjects. To follow the crochets of Machivilian Politicians by transplanting Souldiers, is to nourish absolute dependences, such as free Commonwealths explode, & only raise to an eminency of power to do good or evil at lust, which is tyrannical ; no ; a necessary dependance is all here hinted, which though some may extend farther then others, yet while its rule is not absolute, nor its constant practice, there is no just ground for exception ; by this its plain, the Laws must be equal, that is, respecting time, place, person, estate, &c. and so universal ; now for the leading and conducting of these, whether to place the whole under a general Command, absolute and settled, of a known Military Officer, or of a Civil Officer, as now the Sheriff, and the other to be settled by the Supream power, as need is, is worthy enquiry, yet easie to be determined ; for if it be looked into, both will be seen necessary ; for the settled Law of *England* alwaies allowed the power of the County to suppress Riots, &c. and against obstinate offenders and oppugners of the Publick peace ; therefore the chief Judges in the County must have an Officer duly constituted, who shall see to the execution of the Laws ; next to give the ancient Colonel or the Col. of Horse in each County the chief trust in order, referring special power of making an extraordinary Officer in chief, is (while Commissioners for the Militia are a Court resident) the most (evidently) safe way. Now we are come to consider a necessary engagement, and that is the pay of Officers and Souldiers of the Traigned Souldiers of the Nation. To this its easily answered, if in actual service pay is necessary, the doubt is only in time of peace ; now not to distinguish of peace as settled peace, and disturbed peace, intervals of peace and war, or outbreaks or fears ; I say in the most settled times, its fit the Officer have some settled pay, be it more or less, as the Supream power thinks fit. I shall not enlarge concerning that ; what the age of Souldiers is, is not so needful ; ours is the best way that requires an able man of body, and of this the Commissioners are absolute Judges. Its not much requisite with us what rank a Horsman be of, especially if the State be mixt Monarchy, so called, or Republical ; for honours engage not to a dependance, that is, should not but as the Law requires.

For offences done in the field, and as Souldiers, let them be tryed by the Commissioners for the Militia, without any form of complaint legal or in writing, that is so necessitated, and let the Marshal see the Judgement executed.

For all things which now the Heralds exercise in Office, and which the Lord Marshal did take cognizance of, they ought properly to come to the Commissioners thereto appointed in the County ; and that for the Militia is the fitteſt ; for Honours arose from Arms, and with them let the Records of Honors remain.

The Lists of them enrolled Souldiers ;

Those authorized to make and sell Arms, Powder and Ammunition of all sorts ;

Let them also have the sole power of watching and warding, but by a like head-rule of a proportionate charge, and let them have a fit way by a joint consent at Sessions, or as is by the Supream Magistrate appointed to raise monies to pay, in case of necessity, such as are employed by them for the necessary peace of the County.

Let them appoint Superadvisors of Taverns, Inns, Alehouses, &c. and let them have their Licenses from them, if allowed by the Justices at Sessions, and you may make a Reservation of a Rent to the State to defray charges ; but to admit that entrance to increasing gain, is a visible inlet to all villany, in enervating the good Law under colour of publick benefit, which is most carefully to be avoided, as the shelter to private knaveries. Lastly, the rule of punishments, that is the general Law of punishing mutinous refractory and disobedient Souldiers, and that both in actuall service, and also in ordinary musters and trayning (or better to express it, appearing in Arms) is to be considered, and some other way thought of, especially for trained Souldiers who are not in constant pay, then cashiering or taking away of Arms ; for the despising of Arms is yet in mind, and the honour of the trust of Arms is unknown ; it must be corporal punishment, as whipping, with cashiering some incorrigible, rude, unworthy person, or running the Gantlop, and this by the judgement upon vote of the Officers of Troop, Company, or Regiment, if the Regiment be there. Seek not many, but fit souldiers ; but look none keep Arms but those charged or allowed by the Militia or Justices, as now one is fit, if not of necessity.

I have

I have now but one word to the Commissioners and Officers, and in them to all Officers of Trust, Judges, and others, be strict in your duties to your Supreams, and require nothing but just things, and obedience will flow of it self; it is the Military power that in all alterations of State gives forth the Rule of Government; from their order is the Nation settled: Reduce therefore your Discipline to a just and settled Rule, and then each one labor to beget this opinion in your Souldiery, which is truly a Christian as well as prudent humane Maxime, That the riches and safety of the Master is in the emulation of servants; but as that, so this must have a just emulation; and by that the Army, and so the Commonwealth will be established and preserved; but this emulation is fit to be a little better known; It consists principally in the glory of doing good, but that doing good is materially in avoiding or hindring of evil: I mean they that will faithfully serve the Commonwealth, must not only keep the Laws themselves out of conscience of their own duty, but also see to, and as much as in them lies, that is, as lawfully they may in their places enforce the performance of them by others; the want of which hath so disordered Civil Government, that he that requires or advises but the obedience to the Law, or a just and conscientious regard thereto, is thought, nay called a busy-headed fellow, a Roundhead, a pragmatick, self-conceited, shallow-brain'd fellow; Turks and Heathens will rise up against us. Gent. you it is that must redeem Authority buried in the ashes of politick mercy, which hath destroyed Kings, & will ruin this Commonwealth ere it hath the honour of a settlement, unless the prudence of power set it on his legs again, with the blessing of the Spirit of the eternal wisdom, without which all mans labor is in vain. But I proceed with my intended settlement.

Whether Indictments or Appeals are to be pursued in cause of crime, or both.

Having done with the due regulation of Arms (which under God are the great staises and support of men, to assure their peace, quiet, repose, & enjoyment of what God by their friends or labors hath vouchsafed them) for I must agree that the foundation of humane happiness subsists in the providence of the Almighty, however he useth us as instruments, that is, gives success to our endeavors thereto. We come now to look at the civil settlement in the remainder; and first because the criminal part of law is of most and greatest concernment, as looking at the life of man, I shall therefore look first at that; now in this the difficulties causing difference are these; in an appeal, there must and ought to be witness besides him that appeals; for he is the accuser, and that either in his own right, or as next of kin, but all for private benefit. Secondly, there the damages are to the party, and it is a personal thing proper to the complainant, and he may desist when he will, and compound as he will. The Indictment is at the suit of the supream Magistrate, solely for the benefit of the Commonwealth, and the State hath all the goods, and all damages; and the prosecutor, or complainant, is here a witness for the State, but at his own charge, which is as now used, unjust. The Interest therefore of the Magistrate & the Subject ought here to be compromised rationally, for assuredly, if life goes for life, damages are cut off as unfit, or of unequal value to be rendred for the life of a man; therefore the heir, or wife, or friend who should bring an appeal, as I conceive, ought to have no forfeiture; some recompence may be, where the life is lost, as in all cases of Murders and voluntary considerate killings, and in all appointed duels, not in heat of blood, especially if for ought the Law gives a remedy (for great abuses dispenishable by Law, it seems not reasonable) but of this more after.

Now for to clear this, indeed it is requisite that there be, as is justly supposed in Law, an Attorney for the State, whether called Clerk of the Crown, Clerk of the Peace, or what other name you will give him, settled in every County, who upon a set day each week, by virtue of his place, should receive all complaints, and that upon oath, himself being duly sworn, and then by and with the consent and advice of one or more Justices, should frame an appeal generally, thus: I do challenge you *A.* for the peace of the Commonwealth, to answer to *B.* for the death, wounding, &c. of *C.* whereof you are accused; and let *B.* and another witness make two witnesses; and upon the finding of him guilty, let him be fined moderately, that is, so that at least a fourth part of his estate be left him; The like Law also in case of Maym, wounding, &c. whereof two parts to the party wounded, &c. a third part to the State to bear all charges (for it is not fit to add charge & loss of time to him that is before oppressed) in case of life, let life answer

life, unless by misadventure, yet then he must be fined, but not to the party, but to the State, and that but to a third part of his estate reall or personal, to bear charges; and where the life is lost, the charges must also be apportioned in like manner. For the leavying this, the way is before set: but for discovery of estate, there is the difficulty; but in Lands admit no trusts for deceit, nor uses to cheat, and the estate in the Land will be visible: and take the goods in possession at the time of death, and all is satisfied that can be expected.

Only let a set time be for Creditors to come and be satisfied; also that the Commonwealth be satisfied, and the members not ruined, undone, and impoverished: Thus shall both interests be satisfied, and the multitudes of legal quarrels by indictments, &c. will be quitted, which have freed many rich Murderers, Poysoners, &c. and of other offenders multitudes, when there have been poor prosecutors. That this must be done in the County where the fact is committed, is owned; Let the transferring him from one County to another, when taken out of that County, be settled in an easie and speedy way; and that a Judge be there ready to determine such cases, weekly, if not daily: however to examine witnesses immediately upon Oath, (which all Justices must have power to give as they see cause; therefore make wise and honest Justices better then yet are) and let this be taken as evidence, as far as is credible, and let not witnesses stay a moneth, a quarter, a year for Tryal, and at unreasonable charge: and as soon as gone, a Tryal; if stay, a flaw in the Indictment, though the Evidence be plain.

This was *Englands* old Law; and the reasons are the same; the alteration was the sweet benefit, not Justice or Righteousness: Why cannot the Justices in Ordinary in the County, try Felons, Murders and Treasons, as well by a settled Commission as a Special one: And in all faults, the condition of the fault, and the quality of the person ought to be observed. In an Amerciament, or Fine, I would have but one word for all purse-pains; for that is just, and is our Liberty of old, and now ought to be.

For Murderers of themselves, and Murders and Manslaughters by unknown persons, let such rule be as is proportionate for Fines, to deterr, not ruine Wife and Children; and enquiry in all by one specially appointed, as with us *per* Coroner; but let his power and Fee be certain, that he encroach not on the Office of the Justice, who is but Inquisitor; yet it might be better to give every Justice that power. For Deodands, let the Law be settled by some Rule of proportion, which our Law books hold not forth but solely for the advantage of the Crown so called; yet under the Right of God as the Priests portion, this seems wholly superstitious.

For words threatening life, let good Sureties be for the peace; and let due publick and evidently hearty confession of his unchristian walking be before remission. This will quiet all double Controversies. For of suing first an Appeal and then an Indictment, first Indictment, and then action, brings that there is no end of labour.

Now let us see how Felons are to be apprehended.

How Felons ought to be accused and apprehended.

FOR this, for the security of the Priviledge of the people we must distinguish between palpable and publick, justly known or probably suspected Malefactors, and private, and concealed, yet with some light and possible causes of suspicion.

Now in all known cases, and justly suspected, every one may apprehend without a Warrant, yea if but justly, that is, upon strong presumptions suspected because of flying; but in case of but probable lighter and lesser suspicions, no man ought to be apprehended but by Warrant, that is, the causes of Suspicion allowed by the Justice, the Warrant is to be granted; if he denies, the party may go to another; and where ever just suspicions be, or a warrant, the party complaining, except the informations be feigned, or causes of apprehension merely suggestions, no suit ought to be; and in case the person be obstinate and dangerous, or the number many, the Civil Officers may undoubtedly crave the assistance of the Military power of the Nation, if any be ready, or otherwise raise them, and it is no dispriviledge at all. Now shortly let us see how they are to be dealt withall when apprehended.

How and Where imprisoned? How maintained? And of the Treasurers therefore.

ASSUREDLY, things are best tryed immediately as acted, and would save much needless if not unjust and imprudent trouble and vexation in the world, and then imprisonment would not be a question of such controversie.

But in case it shall be delayed a short time; for it is unjust to delay so long as restraint and charge there (happily of an innocent) shall bring a greater evil by beggering wife and family, then the original dammage.

Yea, grant it were for Murther; but put it so; Let the Prisons for criminal offenders be only within walled Towns, or at least Corporations, in respect of the multitude of Inhabitants necessitated to incorporate, and come under particular Government, not contrary to the general Law of the Nation.

Next, Let them there be maintained at the charge of the County at a set Rate, if they have not whereof to live, and this according to their condition; and if clearly not guilty of offence against the Commonwealth, let them be acquitted free from Fees or Fines. To this end, as before, Let the Gaoler and all Officers have Fees from the State out of the Fines; Let there be special Trasurers, to whom the Attorney for the Commonwealth shall pay the Fines, as the Record is; for in this there shall need no abateing of Fines: for all men shall still have something to live upon.

For their imployment in prison, let it be according to their Trade, if not highly criminal, that is for life, in which Cases the more speed ought to be, that so he may again return to the service of the Commonwealth, and sustentation of his particular Family, unless a person notoriously factious and dangerous, and that in time of danger; in which Case better restrain Liberty private then endanger the publike safety.

Who is Baylable.

The answering body for body is now out of use, or it had better be, and one onely word of bailing used, wherein the party is to appear at a day, or the Recognizance, that is the summ wherein he was bound, to be forfreted.

Now set the Rule certain; in high Treasons where the party is eminent; and times dangerous, surely to admit Bail were vain; therefore resolve the contrary, for it is no priviledge; yet as such, it would be claimed and breed Tumults, or lay the foundation of Sedition.

But for misprision of Treason and words, let them be bayled; but in all Treasons, as in all Cases of death, speedy trial is of necessity; if the ordinary Judges be not sufficient, send down either at the Circuit, if such may be agreed, or adjoyn others of the same or adjacent Counties in a settled way, that the Subject may truly know his time for trial, otherwise to be bayled of course, and set the Judge his power in certain, that he may know his duty, and perform it without, or be duly questioned, and his reason known why he denies.

But for Bayls in Manslaughter, and the like, set down the value; as for Example, for Manslaughter, two hundred; Maim, one hundred; wounding, fifty; beating, forty; assault, twenty; or leave it to discretion of Justices, only put not in men unfit; our present shame.

And thus let all Vagrants, all idle persons though seemingly, able to live of themselves, if suspected, or not able to give a good account to the Justice, go under bayl for their good behavior; or be sent to the place of their birth; or if found refractory or dangerous, set to work in Bridewells, well ordered, and sufficiently provided with good, wise, and faithful Visitors, Justices of the Peace, there to be till enquiry be, or certificate of their condition, that order may be taken accordingly.

Now for the Trial of all persons, let it be, as speedy, so publike, and with one Counsel (no more) if they please, who may freely and openly speak the Law and no more, not manage evidence as is now used; and if the Judge denies the Law, let an Appeal lie to the next Circuit under the Councils Hand, and with his Reason; but if the Judgement be affirmed, let the Council be highly fined. All these matters are subject to devolve into meer Form, except Justice in the Supream Magistrate a ws all; for according to their example do all others frame themselves, therefore it is still fit they be under due and visible regulations.

How Debts are to be Recovered.

Having briefly passed these Heads, I come now, before I come to treate of the way and manner of Trials particularly by twelve men, to treate of the Civil Policy, as diverse from Criminal, and look at that as it looketh at Liberty, Goods, and good Name.

And in this I shall pass over the Introductions to Debts, which are Trading, Bargaining, Selling, Giving, Granting, Bequeathing, and the like, and the consequences thereof; now as to this all Revenge is but bestial, Satisfaction is Rational.

Now the satisfaction must be either from Lands or Goods; Lands for the benefit of Posterity ought to be preserved as much as may be; therefore till there appear no Goods, there ought to be no Proces against Lands; but as the evil present is alwayes heaviest, so the liberty of the Parent is to be esteemed above the future advantage of the issue, and then the lands are to be sold.

Our Law holds forth things just enough; I cannot in my conscience but say the fault is principally in the Practicer and the Judge; the one to move unjust things, the other to determine them; although I believe many of the Errors were brought in upon Prudential grounds, rather then Legal, or to avoid the rigidity of the Letter originally.

For

For thus it stands, the Law being thus anciently, that first Goods, then Lands, then Liberty was to be seized for debts, &c. upon a just and proportionate Rule, necessity found wayes to evade: Quare the Goods, and they were others; Quare the Lands, and they were aliened; and to run through the difficulties of all these Trials, the burthen was found too great, and therefore the Law of imprisonment at first by Arrest was brought in; That it is against Priviledge, that is as used, I believe it highly; but that it is against Priviledge duly used, is not to be deemed.

We ought in all things to remember we are Christians; our professing well, and practising ill, makes bad Christians, nay meer civil ones Atheists, and keeps good Heathens from Conversion; Surely now, we by our Laws make such multitudes of poor, that we see no way to relieve them, and therefore we exact not the Law of common distributive Justice; I dare not be too bitter; The Lord write upon the hearts of Magistrates such (let me say Christian) affections, that the poor may be rightly maintained; but that is not my task here, therefore I proceed.

If any Debtor be, let the Creditor come to a legal Officer appointed, and there Avow in the word of a Christian, that such a one is truly indebted to him in so much, and shew particularly how; if the publike Officer knows the man responsal, let the Debtor be immediatly summoned to answer to the Creditor for so much, be it by Bill, Bond, Book, Promise, &c. If the Officer knows not the Creditor, then let the party be summoned, and if he denies the debt, then let one legal Witness (for all men are not to be admitted Witnesses) Avow; by that I mean a Protestation in the name of a Christian as before a Magistrate, that he knows the thing; then if the party satisfies not the debt by a day, let a Plea be entered.

No more but thus; *A.* of such a place, impleads *B.* of *C.* for ten pounds which he ows him upon a Bond or Bill, or as the matter is.

Then let the Debtor answer thus; *B.* to the complaint of *A.* for the debt of ten pounds, denies the debt, promise, Bond, &c. or pleads so much paid, and tenders the residue, with submission to the Order of the Court.

If he appears not, let an other summons go by way of exacting the party or parties to appear under the penalty of the value of the debt; if he appear not, nor any Attorney for him being warned, let the goods be immediatly seized and inventoried by one sworn man or more, and apprized by sworn men, as they are truly worth, then to be bought at the first hand, to the utmost of their knowledge; and let one Justice of the Peace administer the Oath, to appear equally and indifferently between Creditors and Debtors; then let a Jury of twelve or six men, such as shall be lawfully called of the next neighbours, capable of the great trust of such Judgement, sufficiently qualified with estate to recompence, knowledge to discern, and faithfulness to act according to knowledge, for such ought all Juries to be, and then the Trial by Juries is excellent, where the matter needs, or will bear the delay, except you shall so enforce obedience, that Trials may be speeded as called; then the debt proved, let not payment be till all Creditors be called in, and then let their debts also be proved, not allowing above forty dayes for all, and then let the goods be divided into three parts, if there be no other estate; otherwise three parts of the whole be distributed proportionately as the respective debts amount, a third part saved to the Creditor, &c. And the same Trial that settles the goods, let it pass the lands, and let the Seizure of the Land and Sale be by the publike Magistrate, but all entowled in a Book for that purpose.

How Lands are to be Recovered.

Surely the old way of State and Seisin so called in the simplicity of that Age was good; but to speak it once for all, it is the *Magna Charta*, the great priviledge of Free men, that they may make Laws according to necessity.

I write not this to destroy, but enlarge the Subjects Priviledge, who now by the practice part of Law are deprived of the just end of *Magna Charta*, and all else. I know there is a conceited humerous generation, that are content with nothing but the Letter of *Magna Charta*, and others as much against it; I shall equally walk equally between them; It was then a good boundary to the Prerogatives of Princes, and power of Judges; and it were better to follow that truly now, then to be again ingulphed in as vast an Ocean as no Law, in the variety, multiplicity, and difficulty of Laws; for how many things, literally observed, would plainly much prejudice the Commonwealth; but I proceed.

Lands then in case of doubt must receive a Trial, as for other matters of value, before a publike Judge, the course by a short complaint, at a day set for both parties, with their Witneses present, who can prove the matter in question, or upon Oath made that they are sick, or such Case as is allowed upon Oath taken before a Justice of Peace; the *Affidavit* of such persons may be read, attested under the Justices Hand and Seal.

Always provided the *Affidavit* without another special Witnes doth nothing; and in Case that the land be adjudged to the complainant, to be immediately awarded, and delivered within three dayes, under the penalty of a Fine Treble value (for the time it is holden above three dayes) to the rent for half a year: For obedience in Civils must be rendred to mistaken judgements, final or primary; if final, for ever; if primary, till death of the party, unless he lives ten or twenty years; for it is fit to set a time after such judgements, that so it may be fit for a Purchaser, who may otherwise pay his money, and lose his land; if the Demandant or Complainant be not able to make good his Title, let him pay the Fine for the charges of the Defendant, as is adjudged in open Court, and then let him be dismissed; which Fine must be according to the nature of the offence, and the estate of the party, both being considered.

How Equity is to be pursued.

But it may happen that part of the money in a personal action, or complaint is paid, and that the land is forfeited in case of a Mortgage upon a Cause equitable in Law, as enemies hundred, great Waters, robbed going to tender the money, and bound, or the like, (not voluntary neglects as now, whereby the controvressing in Courts is more expensive to the Subject then the Army) which appearing in the legal Court before the Judge there; let him transmit the Case upon his word of a sworn Judge (that is intended upon his Oath) that there is just matter of equity, and let him see the Case, and examine what Witneses he pleases, and fnd for what other he judges fit; always provided, he decrees the Case within a set time, as ten dayes at the furthest, and then let possession be continued, or adjudged, as the Case requires.

This also must be pursued, that no rule at Common Law, or Order so called in Court of Equity, but be Ingrossed, Read, and Signed by the Judge before going out of Court.

Now to some, there will some difficulties arise at first; what needs this double work, may not one Court determine Equity also? Next the Lawyers will never agree an Order with the Judge in Court, advantages are so sought and preferred, as daily experience manifesteth.

*Whether Law Courts and of Equity also,
are to be?*

For this it is most certain, that while men, we must in all lawful ways give satisfaction to the experienced evils arising amongst men, and that as the evil is capable of reformation; heretofore many delays and draynings of the truth in a set legal course was thought a good way, (or at least so pretended) to make justice pure; form was set up to an eminent height, and seeing the Idol men bowed down to it, and it was thought better to part with some real Justice then lose a shadow, which gave refreshment to so many, &c.

Now, this though it may have shadow, which as the world grows past amusing, will fall of it self, so it hath substance; for the work is proper to another judgement, and of it self likely to be sufficient for one Court, especially if those men be impowered to hear and determine all small matters of equity, as it is fit.

The other Judges in Civil Courts should do all matters of trifle, and also all suits both legal and equitable of poor men.

*What, and Why pleaders are to be, and their
Duties.*

Surely, the knowledge of the Laws municipal, and just, and righteous, settled Customs of Nations, which are Laws, are highly to be honoured, esteemed, and provided for; they are the left eye of the Nation, as the instructors of the Nation in the knowledge of divine wisdom are the right eye.

Now to draw men to such labours, there must be some allurements; we had so many, that of late years it drew all the prime wits and parts of the Nation that way, and all the Courts being at *Westminster*, the whole Nation during the so called Terms, was void of requisite Government; for these wits to maintain and encrease their honour and riches, had made the Law so difficult, that good honest Knights and Squires in the Counties, yea though they had studied the Law, durst not venture upon a matter extraordinary; how then should Citizens? and these, and the Attorneys, by the adjuges tricks and niceties, had buried Justice past finding out by Juries; each man had his legal quillet to deceive the honest man, prejudice the State, and yet satisfie his so called conscience.

Now if pleaders be rightly used, then they are no more but men skilled in the Law, who are for the party who chooses them for their Council, that is, such upon whose judgement and skill in Law they will depend, to make good the Law for them to the Judge, to manage evidence, which some have been famously infamous for; to do what they can for the Clyent, that is by lawful or unlawful wayes to get the day, is most unchristian.

Thus yet old Lawyers through tricks, use to deceive young Lawyers, and unpractised Judges, or old, or sleepy, or such ignorant ones as have been admitted and continued, till they with credit of conscience left their place; therefore it is unfit any Lawyer speak but to the Law, and that only to the Judge, and that to enform him, and require his advice, and that he ask these questions. Let all these Lawyers after admitted to plead, set in the Court, below the Judges, covered but when they speak; and any one as a friend to justice though not retained, may speak to the Judge his opinion; And let all but the present pleaders be as assistants, as to so much as information of the Law according to their skill and knowledge; let but one be retayned for one man, and let not his Fee be above two shillings six pence; and that a supply be, let each one have a pension or an office from the State, and then in case it amounts to a competent salary, it is better to allow no Fee at all; The objections of laziness and

the like which will ensue upon this, are no way answerable to the necessity of giving stop to the immoderate labouring after riches now in this generation, and that only to be Fathers to a lazy idle ignorant gallant Son, &c.

What Attorneys are to be, and their Duties.

Many will think Attorneys as needless as Courts of Equity, and so they are; yea truly not of so much necessity; yet much good there is in Attorneys. But so many is to nourish knavery and shew an unchristian Commonwealth; for many of them cannot live, no more then many Lawyers, without much contention; Which shews strongly that our Commonwealth is but baptized Christian, with water, not the Spirit of love, meekness, gentleness, peace, long sufferance, forgiving as we would be forgiven; Oh the sad case of Christendome so called! I must grieve to think of it, though others laugh at me.

But while all men are not capable of the plainest forms of Law, it may be conceived requisite to admit men who shall appear by their warrant to answer for them; but men to be necessitated to it of custome, as now, seems not just; Two belonging to every Court of Judicature is enough; let his duty be only to receive instructions from the party in the matter of Fact, and to set down the witnesses names in a paper for the Judge, and to what they can speak, but not to speak in the Court, but to the Judge, and let them have a Fee as the Magistrate shall think fit.

Let both Lawyers and Attorneys be fineable by the Judge, and all that plead as such in Case of misdemeanor, and that without a Jury.

Whether Debtors be to be imprisoned.

Surely where there is neither goods nor Lands to satisfy the rational man, the Law of Christ, of Love, will not still engage to satisfie angry revengeful persons, in exorbitant and irrational appetites; therefore if he will take oath that he is not worth a third part of the Debt, that not exceeding sixty pounds, or what sum the supreme Magistrate thinks fit, let him be freed; let the oath be general or particular, I care not; for he that will swear upon a trust, will swear upon no trust; but let the thing concealed be forfeit: if you will not do this, keep not debtors in prison, rather make them servants; the same for Felons, Trespassors, and the like.

Whether

*Whether Servitude be lawful among Christians? &c. And whether
fitting, or not?*

Surely the Almighty wisdome appointed nothing in it self but just, and that justly, Syea above other Law-givers, who from want of prudence, oft multiplied servants to such numbers as they oft oretopped their Masters and the Laws; but the Lord by allowing servitude among his people, yet limiting it for a time, gave satisfaction to justice every way; the proprietor was satisfied by labor, where estate failed, and the servant had his day of freedom, and the danger of multitudes was never obnoxious to them; for we see the Lords and great men offended in forcing service, but not the contrary; service therefore well limited, is held by many and those prudent men, and godly Christians, no way dissonant to the Liberty, nay equality of the Gospel, wherein by Christ we are brethren, and fit to be practised as well as bound Apprentices, but with well tempered Laws.

As first the power not to extend to life or mayme, next not work above so many hours in a day, then to be cloathed against cold, and fed for Natures sustenance, that is, he shall be better then in a prison; the greatest difficulty will be to make servants of wife and children; for it seems to some unreasonable, that they should be made servants: Our Heralds in many heads have made such shatters, that they cannot think fit a high-born man or woman, or the like (which are accidents of inferiour providence, as I may call it) should be subject to the universal Law of Mankind; but certain it is, if all Debtors, &c. pay or serve, these men ought not to be excluded; but that the women must follow the condition of man, is not of necessity, no more then to be imprisoned, &c. she must be miserable, but needs not be in servitude, nor the Children.

Now the Law-maker ought to settle something against them, upon two grounds; First, of satisfaction; secondly, of awe or fear; upon this score to make the children and wife suffer, would do much as some think; but I conceive otherwise; for self is generally neerest: Next for children, it would or might ruine education, whereby the publick loseth more then the private gains.

Lastly, for the wife, if all parties be pleased, let them come and serve together; otherwise not; But under the Law of mercy to shew mercy and love, let the evident poor man be discharged, as before, with something to begin the world; but once more repress idle houses of all sorts, vanity in Apparel, &c.

And settle estates, and rate them truly, and keep strict and just Government, and you will not complain of poor, nor fear cheating, nor need servitude, but with content of all parties; but above all, take off high Covetize, and preach by example, as precept; Magistrates, Ministers, &c. men of all sorts having food and rayment, be therewith content. But because Usury is supposed a manifest cause of beggary, and is so much questioned in the world, and so beaten by the Pope and his Councils, and Usurers so accursed, and our Law present onely wincks, tolerates not, let us a little consider that, and Quare,

*Whether Usury be lawful ? And how compared with
Letting of Lands.*

Take Usury to be a Covenanting for to receive the principall with interest ; Now the reason of the coming to a settled way of use by particular persons, that is, twenty, fifteen, ten, eight, six, or four in the hundred, was upon consent of parties to avoid tedious and deceitful accounts and reckonings, and the like, (the Laws settles it to avoid excessive gripings) just as in Lands the Tenant hires now at a certain price, and puts the gain in his pocket ; truth is, we are a light, loose, proud, lazy, prodigal Generation ; for we have had much liberty, educated under no restraint, aw, nor fear, no reverence of youth to Age, of people to Magistrates, of poor to rich, no order, all men now Masters, all brave, all for back and belly ; this spends fast, and gains are decreased, and oft all lost, and then the fault is use-money : I pray what difference between being undone by a cruel racking Landlord, or a biting hard-hearted Usurer ? you will say all one ; He that gains little by Land or Money, cryes, I had rather take money, and hire Land to give account ; I am undone ; some by being unfit to manage Land, or Money ; others by ill managing of it ; he that thrives, will never agree to this ; no, that were to be alwayes a servant : Again, some will over-purchase themselves, and receive four in the hundred in Lands, and pay eight ; and this ruines them ; others have good Trades, in debt, purchase, pay use, and thrive ; Nay it is certain, Money is a more possible way of great increase, then Lands ; and the Complaints even in all Nations much what alike ; therefore I conclude as to that it is fit to regulate letting out of Moneys ; but it is also fit to order some proportion for Lands, or give a Rule for Landlords, that squeeze a poor ignorant labouring creature, as we do a Honey-comb ; let neither be permitted unjustly ; and for rich Tenants, let them not defraud the Commonwealth.

This premised, Usury in it self may be lawful, if not forbidden ; now if it be forbidden, let me see where it is ; if it were Typical, it is abolished ; if judicial generally, it is rational, that is, all those Laws hold forth the reason of commanding, or prohibiting plainly, and then let us see the reason.

Now if you take it judiciall specially, as proper to the Jew, then it must by like reason run thus, Take no use of thy Brother a Christian ; the English Translation hath it poor Brother, which to me plainly hints the Law, and its reason, and that justly ; and this not observed, is unchristian ; so to imprison for meer use, the principal received, much more all lost ; and that not by neglect, folly, or exorbitancy ; for all these differ the Case in the Court of Christian Conscience ; but for rich men to detain use is unjust, or if able to pay, for to plead it while cloathed as Princes might be, is a shame to the Governours ; God hath not bound us Christians to Laws of meats, particular Judicials, wherein the command was onely to try obedience, therefore regulated ; it is without question as lawful as letting of Lands, much more lawful then buying for three pence in the season of the year, and for half a years benefit of laying out of the money, to get twelve-pence, fourteen-pence, which is ten fold, nay one hundred-fold worse usury then twenty *per cent.* yet this is usual and never stumbled at ; but to double is counted lawful necessary gain ; how ever if the Law allows nor, let it not wink ; I now come upon the rule of like reason to Quare,

Whether tortures be lawful among Christians, and whether against Priviledge?

WE have before agreed what Priviledge is, and wherein it consists, and that publike good is to be preferred above private.

Now we come to particular questions concerning it ; and that is, whether it be against Priviledge ; but being that the resolving of the other part of the question will in the greatest part, if not wholly assoyl that :

I first examine, whether Christianity allows it ; I might first have determined, whether Nature allows it : for if Nature seeks Self-preservation, it allows it not ; then surely it is unnatural to force to overthrow Self ; it is agreed, many detestable Murders, Rapes, Adulteries, Treasons, &c. to the preservation of States, and glory of God, in just punishing of offenders, have hence arisen ; but this may be Gods mercy to bring good out of evil.

* Our Rule is, Let's not do evil that good may come of it ; Now this hath also been manifested, that much evil have come of it ; not onely many Innocents have suffered in it, but by cruelty have been falsely accused by such parties, easie natures being drawn, and in the torment have spoken any thing ; so that it is no certain Rule, and if no certain Rule, and a severe punishment, and that of one not convicted, it is not onely unchristian, but irrational ; the vain Christian I know, is ready enough to seek assurance against fears by such extremities ; but it is better to trust Providence, best so to live as not to fear to die ; I shall not enlarge in this, which is so plain, but haste and consider

Whether all publike Offices and Charges be to be born by the publike Purse, and what is the publike revenue.

IT was never denied in any State or Nation ; For the labourer is worthy of his hire : The Laws of this Nation allow it ; yet onely to a competency for the necessary charges of the place ; not the charge which Pride, Vanity, and Custom hath introduced, or may.

Now assuredly this ought to be settled in certain, or rather to be so settled, as may be reduced to a certainty from the Judge Supream, to the Constable and Scavenger, whose place is now disfused to the great disrepute of the Nation, and offence of Natives, as well as Strangers, and the Laws take no notice of them, onely Customs of Cities, &c. which Customs, how good so ever, are made so difficult in pleading from Form, and so chargeable, if granted by Charters, that the Government is wholly lost and disfused ; they ought to have power to employ men to cleanse all places of filth, carry away dunghills, &c. and punish offenders, and they to be paid out of the publike Revenue.

Now the publike Purse and Revenue is all mens lands and goods equally rated ; deny this, and all men will make places of Trust serviceable to their ends : Nature is above Reason, above formal educative professing Religion, and misleads Saints oft-times. I cease further enlarging this, having in other part settled the Reason of it before.

How mad men, Ideots, &c. are to be provided for.

IT ought not to be in the power of every man to make or adjudge Ideots Lunatics, &c.

Therefore it is fit in every County some Court be appointed, as to appoint Guardians and Tutors to children, so to determine who are mad, and who fools, and to order the management of their estates, and places to be specially provided for them with a settled Physition; and if the party be able, his estate must as the Magistrate appoints bear the charge; otherwise, the publike and this Court to order all Bridewells and Prisons, and Commissioners to that end authorized, specially with settled power to determine the same, and all matters thereupon arising, and to Record it; all yet to have superintendent Judges Visitors, as aforesaid.

Whether the Tenures of the Nation can stand with the freedom of the Nation?

PUBLIKE and Universal consent took away not onely the Tenure in *Capite*, which was originally the great mans dependence upon the King, and after great and small being become every ones purchase while annexed to Lands, which was incongruous, but also Knights Service, because of the dependence of mean persons upon Lords by Sword-Service; and the rather for the incidents now become so insufferable, of Wardship, Marriage and Relief, and the prime reason effecting it next to the power which struck the first stroak, or nothing had been done, was the original ground of the Institution of the Tenure ceased.

I need say no more for Copyholds; a wise uninterested man will speedily conclude the reason of the institution of the Tenure is gone.

Truly you Lords of Mannors, you it concerns, I pray consider upon what grounds you hold Courts, swear men, Fine at pleasure, seize goods, or restrain; a cunning Lawyer might find you all in the forfeiture of all your Mannors: How many Mannors have sprung up since Prohibition? but this is but by the By; the State may look to such Chequer Rents and forfeits in time; but to the thing it self.

These dependences are visibly destructive to the peace, quiet, and purity of Government in the Nation; next the forfeitures are unjust, being constantly for no cause reasonable; again the prosecution or finding it is also unjust, being by the so called Homage the Lords men; this abuse is evident; Some Lords setting themselves in Court, and threatening the Homage if but questioning the reasons of the matter in question, and make them find what they please, yet sworn.

Lastly, incertain Fines are wholly unjust, and above all the dependences of Free men; for now Copyholds is also become each mans purchase, yea Free mens; this is clear against the original Constitution; and the reason ceasing, the Law ought to cease; but if the interests of Lords prevail for the present, that there be no totall abolition of the name, and remembrance of that Tenure, no more then of *Capite* and Knights Service, which is equally just; yet let the Commonwealth have its due freedom, let the Fines be made certain, one years clear value, which cannot be above two parts in three.

Next, No forfeitures; next to pass by free deed; lastly, all as Free hold at Common Law, except onely the Rent; for it is better enlarge the Rent and have no Fine.

Lastly, let no Rent be distrainable for upon the land after eighteen moneths due; and for the apportionment of Rent, let it be recorded between Buyer and Seller; and if parties concerned cannot, let two Justices of the Peace upon hearing both parties determine it, and let it be recorded in the Parish or Town-book, to cease all Controversies after.

To clear this, Let a Commission issue to some persons to return a Survey of all Mannors, when granted, what Customs, what Tenants, what Rents, Free or Copy; the quantity and nature of lands, particularly the value yearly, that so a foundation of settlement may be laid; but because of the great advantage hath been said to accrue to the Commonwealth by Copyhold-lands, above free and Charter-hold, in respect they were not subject to cheats, frauds, &c, as Free-hold lands, let us a little consider how lands are to be passed.

• *Whether*

Whether Inrollments ought to be in each County, and how, and the Way to avoid deceit in Conveyances, &c. and of Frauds, and the best Way of punishing them.

Heretofore Deceits were not so frequent; men, yea even the highest preferred honor above inheritance; Now as the love of riches, the god of the world prevailed, so private interest grew, and from thence looseness of Law; and the jealousie between our Kings and people, made Laws come forth difficultly, and when ever they came, the interest of one side was visible, or the Law so choaked with ambiguities, or incertainties, or so short in the main, that it did but add to Contention, besides the difficulty of obtaining them, without an active leading Parliament man were the Author or eager promoter, which in those dayes few would or did undertake out of pure zeal; so that men set down willingly by the evil, and lookt to prevent it as well as they could, and take their chance, as they called it, amongst others, rather then stir for new Laws of any sort.

This made of late years, the legal robberies of cheating and truly fraudulent conveyances encrease (as well as Letters) yet not within the adjudged remedy of Statute, frequent; for it is as easie to avoid the Statute as to quench ordinary fire with scalding hot water; one good Law against all frauds, is better then a hundred of the best against fraudulent conveyances; the reason is so gross and visible that it needs no president, there are yet too many.

But while all possible means of the exact purity of Justice are to be indeavored by all Magistrates, especially Christian: It is just and requisite, that they take the hint of the good hath flown from the manner of passing of Copyhold Estates, which truly proves, that an Office of Inrollment, at least in the Head-Town of every County, is of necessity, with such due regulations as is fit; and in the same Office, a passing of the wifes content, by sealing the Deed of Sale, or releasing it; provided, the Act be done before two Justices of the Peace, be as good as a Fine; the *Dedimus* upon the Fine, is to meaner persons, less fit to be trusted then some Justices may be; however not under the conscience of an Oath, which all they be; the charge of a Fine is not so much (though to some it is more then they are worth, and ought to hold some rule of proportion) as the trouble, care, delay, &c.

Let there be therefore always some authorized to take these.

There is another legal, I dare not call it deceit; the Custom hath established it, as a Fine to bar the issue, intayle, or a recovery, or both, with single and double voucher; but what is this but Custom against the Statute Law, by the assent of the Statute? I know the Evasion is but a meer Evasion; it is better to mould the Law anew; for the Law is both wayes unjust; for the Statute *De donis*, is in it self a perpetuity, and would settle lands impossible in a short time, and then all men must flee to the Supream Power for remedy; let them therefore settle how lands shall be *De jure*; as for example,

The eldest son to have all, two parts of three, or three of four, or a double portion, or at the will of the father; provided he gives it no otherwise but to him and his heires: and indeed all other estates are but to be a little over-wife; but in this I shall not undertake to prescribe ought.

I shall onely add, let the Law be; All frauds to be punished by Presentment, which found legally, damages to be to the party according to the value proved, and then a fine to the State, according to the Law and the nature of the offence. Now this, according to Law, brings us to discussion of Juries,

Whether it be best to have Trials by Juries ? and in that of the Course of all Trials Civil.

ALL agree, that right is to be done ; but many, may most differ about the way ; and certainly there are divers wayes, and all good ; but there are better wayes, and the best ; but the diversity of Opinions is great in these ; for some call that best which others call but good : so various is Judgement, much more Opinion ; for many which have found the good of one just, wise, discerning Magistrate, will think him better then a Jury of Twelve ; and they that have found corruption in one Magistrate, and Justice from Twelve men, abhor what they call Prerogative Sentence ; it must be assented to that while in the flesh, the best men are subject to fails and mistakes, and therefore to draw Justice hath been thought the best ; this with popular jealousie in the just fears of dependencies of Judges rivited *England* to the maintenance of Juries, who will not easily forgo it ; and though there is at present so much miscarriage, that I think there is far more evil then good by them to the Nation, I would not their temporary ejection, but their due, strict, and settled Regulation.

But first, every Case is not worth such trouble ; but Justice must be done in every Case ; and unless you will pay Juries for their pains, they cannot travel ; therefore to avoid this, you must make Judges in every Town ; and though the letter of the *Magna Charta* is general, yet do but the Justice of *Magna Charta*, and the Subject will not complain. Justice never wrought dispriviledge, and is above *Magna Charta*. But before we proceed with Jurors, let's see how Cases ought to come to the decision of Juries, then what Juries, &c.

Now it is just, that before any suit be, the party wronged should first privately seek peace, then call the party before a Magistrate to know what the difference is, and see if it yet may be composed ; if this will not do, let a Magistrate allow a legal controversy.

Then let his Case be set down specially as it is, after the nature of an Action upon the Case, and let Oath be of the truth of it, and that he is able to make it good by Law ; let the Case barely be stated, no Conceits, no Opinions, but the naked truth, which the Complainant is to make good.

Let this always be within twelve moneths after cause of Action. Then let a Summons go to the Defendant by a sworn Officer from the Court, or the party, or some other making Oath of the Summons ; if he appears not, let a Note be fixed to his door, (under a severe penalty to any one to take off) requiring appearance, or to shew Cause ; if neither be done, let the Trial immediatly be awarded ; if he appear, let the day of hearing be ordered and entered in the Court-book, (and that truly by the Clerk under a severe Fine, immediatly to be deducted by abatement in his Salary,) after which time, let a Jury of twelve or six men (for it is not the number that doth the work, I think six best ; but that contest is not worth the while : the alteration of an old received way is the greatest objection) be warned, not under the penalty of twenty, or one hundred pounds, and nothing ever paid, but of ten or five shillings, to be assuredly levied to the States use immediatly of Course, unless sick in bed, or otherwise employed in the Service of the Commonwealth in the County above twenty miles, or hindred by Providence ; which Causes sworn and allowed, may excuse or essoyn him ; for not summoned, the Officer is sworn, and must admit no present contest.

Now the men must be knowing, understanding men, and of estate to answer damages, (if that be continued) if they give a false Verdict, which is just, being they are properly Judges of the damage : now if they and the Judge differ upon the Law, let them do it at their peril ; for the Case, let it be stated, the Judges and their hands with the Counsel present set to it, and let the yearly Judges decide it ; and if the Judge be faulty, let him, orherwise the Jury be fined to the State ; and if they give a false Verdict, that is, go not truly according to what is truly alledged and proved, unless they or some of them of their own knowledge know the thing of which they are bound to give the Court publike Cognizance ; for Juries as other Judges are under a Rule of Reason and Common Justice.

Then

then Jurors must be of the next inhabitants to the place where the fact was Committed, of the vicinage, neer dwellers, so that they know the parties, their lives and conversations, and thereby judge; But there ought to be no relations of Consanguinity or Affinity within three degrees; for although spiritual or publick relations ought to be preferred above natural, yet this is now little known, less regarded.

Lastly, he must not be who is a Jury-man, a common Swearer, Drinker, Company-keeper, nor ejected any congregation as an evil person, an offender against the peace and quiet of the Nation, or one that hath declared his opinion before sworn: It is agreed, it is best object against the Juror before sworn, but what the court is mistaken in, ought not to be proceeded in; therefore till they be as we say gone from the bar just objections may be offered; but the Judge must not allow objections as to favor or surmises after sworn; if it be, let it be proved (for let no Juror after sworn be dismissed, but the reason recorded) and this proof is easie, and then let him be fined.

When Judgement ought to be, and Execution. And when void.

Judgement ought immediately to follow Execution, unless some just cause, and that only in Law be offered; and for execution (notwithstanding the cause which may be for delay alledged) let the goods be secured, or the money deposited, or no cause allowed; And if the party be present, let him enter caution immediately to perform the judgement; or otherwise to imprison his person, is not dispriviledge if he be able, till he performs it, let the caution be setting his hand to the judgement, which ought to amount in Law to above all Statutes or Customary Judgements; alwayes provided if the execution be not within twelve moneths, upon any Judgement whatever, the Judgement to be void; for the long hanging of judgements and other securities is also legall injustice; I say no more.

Offenders in impanelling Juries, Imbracers, and the like.

For offendors in putting in knowingly unfit Jurors in any kind, let them be fined, and the Fines high, and deducted out of their salary, if any in hand; otherwise by distress, besides loss of that place, and disabled of any other, for at least some years, for it must be perjury, for he is a sworn Officer.

For drawers of Juries, or informers of them beforehand, to draw them to one party, let all be upon presentment, and tryed and fined.

What Distresses are lawful.

The Law is just that no man be destrained in that whereby he principally earns his living, if ought else be.

But to distrain one man for a Fine due from a Hundred, Town, &c. this is hard, without speedy remedy, is unjust; let this be generally committed to a Court, and right done as the fact appears, that is, let an equal rate be, and the Constable and Overseers gather it, and pay it immediately with respect to his damage adjudged and set; and if they will not, let the Court enforce the rate, and all charges upon it; and so in all other Cases.

What to be done in cases of Waste, &c.

IN case of waste, let the forfeiture be certain ; for Tenants for year by Lease, let it be their Term, except an incom be, and for that let a Jury mitigate.

For Guardians of Infants, Tenants for life, and the like, let it be treble dammages, those to be assessed by a Jury.

What to do in Commons.

THIS is a matter of large extent, and is one of the great sores of *England*, which wants healing.

Our Commons are either appendant, appurtenant, or by reason of vicinage, and were originally the relief of the beasts of the Plow, and for the breed of young Cattel for the Freeholders, and do primarily belong to them ; and as their Farm was, so might they put upon the Common greater or lesser quantity of Cattel, according to proportion.

But long since the rule of Commoning was lost, and Commons are become the ruine of the generality of the poor, to whom Commonage belongs not.

For first they get a Cow in Summer, and live idly of that, and not providing against winter, they buy dear in the Spring, and sell cheap at winter ; and the rich, so long as the parson payes not, few regard how things go ; by this at last miserable and remediless beggary ensues, besides the general neglect of Commons, as of all matters of publick interest, whereby many poor are undone by los of their beasts, the ground spoiled, and not half improved.

And lastly, no due extant visible rule set, which ought to be in all Counties anew, and Rules for dreynting and improvement, beyond what the Commission of Sewers can reach.

To avoid this, it is necessary, as in other matters, to empower some Gent. to consider the Commons (give them only their charges necessary at a set rate) let them have power (if you can pitch upon trusty persons) to settle Commons if you will continue them ; otherwise to part them proportionably, and improve them by severalties, leaving a set part to the poor only, to be improved for them, according to order of the Commissioners, by the overseers for the poor, and the order recorded in the County-Book for that purpose ; and also in the Town, or Towns, if there be entercommuning ; this is the best way of the two, as by experience meeting with more evils, and remedying them, then the other way is capable of, in a present settlement, and is assuredly far more durable.

Let free Warrens, and Fold-courses be considered, but not at the height, and settled where they please in severalty ; this, if wisely and prudently ordered, will afford not only a great and most considerable improvement, but will afford a mean of settling the Nation ; and may now be done without danger of Insurrections or Tumults ; And let but the settling of Tenures be carried on rationally, plainly, and prudently with it, and the Generality of the Nation will assuredly see the clear benefit of change of Government.

Provided they may have Justice that they may abide by, that is, know assuredly when to end, as to begin, and at what expence.

Who ought to have the oversight of Bridges, Rivers, &c.

Now as all matters of right and wrong are under the cognizance of the Supreme Magistrate, who as he cannot by himself dispatch all businesses belonging to the Land, but by many hands, so much les all both at water and land, and all the evils accruing and arising in, from, and by both;

Therefore it is fit to have a Magistrate specially deputed for cognizance of all such matters which now lay in the cognizance either of the Admiralty, or Commission of Sewers, or Justices of the Peace respectively, or for which any Commission is issuable upon any Statute, with such rules as are necessary, both for amending, judging, and determining matters yearly emerging, and also such as are meerly accidentall, and that in the respective Counties, yet in such a way as the errors in the adjacent parts of Counties may be tryed without infringement of Liberties, which is best by a medietie of Jurors impanelled yearly, one year by the appointment of the Judges of one County, the other year by those of the other County, and so by course constant in those places, we seeing the excessive charge and trouble of purchasing Commissions; for let a Statute appoint five shillings only as in case of the Commission of Sewers, you can have none under five pounds, and ten, or twenty pounds attendance to procure it.

Who are to be admitted Witnesses in Judicial Tryalls?

IF Jurors be to have knowledge and estate, and that in such manner as may answer the Trust, then surely in some measure witnesses, upon whose evidence the Jury is sworne, to lay the foundation of their judgement so called Verdict, ought to be men fit to be beleived; The Law principally looks first at infamy, especially perjury; but this being legal perjury, the punishment was so penal, and the Law so difficult, that few were complained of, fewer attainted.

Now this is sure moderate punishments, severely executed, curb more then severe punishments remisly or not at all. The Law in the next place lookt at Excommunication, for relations they are not valued in Law as to witnesses.

Assuredly he ought who is a legal witness to be of sufficient understanding, next not convicted of notorious crime; for justly what is the cause of rendering a man incapable of the benefit of the Law, or rejection of Church-Society, ought to be admitted if proved, a good plea against the witness; yet let such a man speak, but not upon oath; for he that obeys not man for Gods sake, nor God for his own, is not be allowed to call God to witness; for in his acts he denies him, though with his mouth he owns him. If it be askt, Why heard?

Then I answer, he may speak truth, but is unworthy that sacred Testimony.

Therefore the Magistrate must from his words and probabilities and circumstances, and so the Jury gather the truth of the matter; but where the man is capable of oath, let him be sworne, whether twixt the State and Subject, or Subject and Subject; for right is the same.

There is also necessity to hear the wickedest mans Testimony, though not swear him, because we cannot alwayes chuse witnesses; therefore estate is not requisite, nor can be stood upon in witnesses, as in Jury men, who are to be chosen.

For point of favor; I find in this Age it is of great importance, for such relations in Nature are generally preferred to, (though unworthily) relations either of Countrey or City, earth or heaven; few men leave all for Christ, Truth or Justice sake; Therefore I would admit the notice of alliance, but not the objection, and hardly carry it upon such a single Testimony.

When Laws have their beginning, and how to be promulgated.

Assuredly there ought to be a day certain, before which in the several Cities, Towns, Hundreds, &c. respectively, there ought to be an Assembly of the people, those at least who are, or may be, or immediately are concerned in that Law; and there, by some one or more of the Justices of the limit, or some other thereto appointed, the whole nature of the Law, and the reason of it, ought to be opened; and the people exhorted to obedience themselves, and also to see that their Neighbours do the like, which is of necessity.

But the inability of Justices, and difficulty of Laws, have rendered the people wholly doubtful and stupid, or petulant and stubborn.

And before such promulgation, no punishment but of the Justice for not promulgating, or Certificate of the default of the representative for not transmitting the Law, the same to be settled and published accordingly.

The Jew knew all *Moses* Law, the Christians Lords know not their Law, they are all enshrined in the breast of the Judge; but enough of that.

The Magistrates duty to repress excess in Apparel.

The mind of man is apt to take impressions of sundry Natures, and education may assuredly rectifie Nature; much of this rests in Apparel; for vain light Apparel makes the spirit lofty, not solid, and changes of habit adapt to mutability of fancy, a light flashing wit in stead of a composed judgement; Proud,umerous, self-conceited and stubborn, in stead of a reserved, prudent debating or submission. If the interest of setting many poor on work, and supposition of enabling to pay Taxes can over-ballance the interest of the just and necessary well being of a Commonwealth,

Let the Magistrate neglect a due care in this; But I presume it is fatal; however, let not the cloathes and colours, which are the Ensigns of Majesty, Honour, and special Virtue, be made not onely common to mean men, but their ordinary Liveries and for servants of all sorts; let their Rules be set, and let others do as they will, so it be ordered, that they bear all publick charges at their rate of private expence.

Whether Titular Honours be consistent with a Free Commonwealth?

If it be supposed, that the Quare be whether the Commonwealth may admit them, or that they be ruining of such a settlement in themselves;

It is not intended to bring it into controversie; the Magistrate may do it, and the State may yet stand; but the Quare is onely of Prudence.

For the honours being hereditary and native from Monarchy, their tendency is thitherward; and while the root remains and hath but any sap, there will be sprouting each day, which will labour a re-establishment; so that prudence in a resolved Commonwealth, would not so much as in any case but that of necessity, grant such Titles to be at least claimed of right; but let only virtue proper exalt the man, and then a Commonwealth of all settlements is the most happy establishment, which God grant may be first held forth, then practised, and that will assure a lasting Government; for the shattering of States is Pride and Emulation of Competitors for principal management, which in an interval of peace is as natural to natural men in such a case as Sweating.

What

What to be done in Cases for which no Law is set, or the Law clearly abused, annulled and antiquated.

Surely there is no offence, no transgression, but it falls under some Head of general Law; yet Circumstance may aggravate it so, that to quash the thought of it in the corrupt heart of man, there is exemplary punishment requisite upon this account.

The lying with a maid-child under ten years of Age (consent or not) was justly made death.

But put Case as trial was, A man abuses a boy at the mouth, whereby the child breaks out with pustules, &c. in the letter it is not Sodomy, Buggery, &c. for which the Law provides, but a filthiness of a worse nature; so some of the old Earl of *Castle-Havens* abominations; so the busines so called of Mopping in Star Chamber tried in an extraordinary Court, and brought in upon a challenge between two (at least one) great spirit.

This for criminal matter; so for all defects and deceits which be remedied by Statutes Supplemental so called of the Common Law, that is, since it was presumed, that there was no Law for which there was not an adjudged Case in the Year-books, leaving the Rule of the string to go by the bow, or in some things which ought to be remedied, but now cannot; as for example.

A. sojourns in the house of *B.* his Nephew. *A.* hath divers Nephews and Neices upon whom he would settle his estate; being old, crazie, and not able to stir abroad, *B.* finding his Uncles and Kindred to endeavour a just and equal settlement according to *A.* his intention, they come to *A.* for that purpose. *A.* gives it under hand and declares the pressures of *B.* to settle all upon him, and that he knows *B.* will make him alter all; to this weakness hath Age brought him. *B.* after this shuts the doors against Father, Brothers, Uncles, Friends and all, and will suffer no one to see *A.* or speak to him; the Magistrate is complained to, he hath no power. *A.* is thus imprisoned, it is fit to be provided that the Magistrate should take a sworn Clerk, and make *A.* his Will not to be altered but by the Magistrate sent for by *A.* but it cannot be done, that is lawfully, and *A.* is now kept a prisoner till death, his estate, as informed, all seised and converted by a debauched man, a rebellious disobedient son, and ungracious Nephew. Thousand such things are, which while the Magistrate is tied from the Rule by particular Laws, lay as heavy judgements upon the land, especially upon the Supreme Magistrate, who as a wife and good Physician ought to have a salve for every sore.

The Rule of Law is, *Quae sunt minoris culpa, sunt majoris infamie*; these things which are unjust, while profitable and unpunishable, are the Tetter of the Commonwealth, they do spread daily.

Therefore it must either be resolved, the Magistrate in Ordinary shall punish them as the Cause is, that is under the Rule of the head Law, if plain, or not criminal, or criminal respectively; otherwise, to attend a meeting of divers Judges, or the extraordinary Judge for Criminals, and in the mean time to secure by bayl or imprisonment as the Case requires.

And this must be observed, no Judge to be punished for want of Form, if the Act tends to the speedier settlement of the Commonwealth, and doth the Act in person.

*Whether Duels be lawful or not ? and other Trials by fire, and Water, &c.
As in the trial of Witches, suspicion of Adultery, &c.
and all doubts.*

I Shall first treat of Duels, which is without question unlawful in all Cases, yea of the greatest doubt.

But first to speak to plain Cases, most of which are disgraces, affronts, &c. for which the Law gives none, or not considerable satisfaction or reparations : Now it is clear in Law and Reason, that when words and signs become dangerous and prejudicial, the Magistrate ought to provide accordingly to repress ; King James made very rational orders in the very case of Duels, but saw them not executed ; which disgusted the most discreet spirits ; but it was evident, the catch was but to halter the great men in the Springe of the Star-Chamber Law ; such policies never thrrove yet ; Piety when the end is Gods Glory, with the peoples good (not particular persons interest) is the best policy.

Let therefore the Magistrate no longer count words light, while they bear the weight and price of blood, but repair every breach, give a just recompence for every loss, and then punish transgressors severely in such Cases ; for many think they may justly become their own avengers where the Law affords no remedy.

The example is evident in stealing Dogs, so called for pleasure, which hath cost Lives and Ears.

The Lord Marshall did take notice of some of these matters, but not all, and that with such delay and difficulty, that the parties were better try it shortly ; therefore for all words, give speedy remedy ; let the complaint come presently to the Judge, and receive a trial accordingly as the Supream Magistrate shall order.

For the second part, which are difficulties, suspicions, &c. we have no infallible word to warrant it ; the practise arose rather from Heathenish Superstition, then Christian Faith ; therefore we are to leave them to Gods judgement, and settle the matter rather some other way, as of lot in Case of doubts in civil claims, which assuredly is lawful.

But as to the other suspicions, there the causes of suspicion are to be examined, and if approved, they are either evident or doubtful ; if evident they convict ; if doubtful, they render suspected.

Now in all Cases of such Tendencies to suspicion, if the parties suspected walk still suspectedly, they are to be punished, but not to the height of punishment ; and punishment must increase as crime does ; but to entertain jealousy too far is dangerous. Therefore let all Magistrates see some grounds before they admit Question, more before they punish.

For the Ordeals, were they an infallible certain Rule, they might be used, but for want of that, they are unwarantably made Laws where ever used ; and therefore where used, to be rejected.

*What Religion the Magistrate is to settle ; or his Duty and Power
therein. Whether, and how there be, or may be
two Supreams.*

I Have Implicitly scattered some opinions tending to the resolution of a great part of this Question, which I shall not again meddle with ; my intention here being onely admitting the Magistrate Christian, to Quere his duty in the variety of opinions, and so reflect a little upon our present doubts, and discuss them so far as may tend to settle, not divide ; for for some high opinions of the Churches Power over the Magistrate, and for the esteemed obstruse and difficult opinion of the Magistrates acting as a Church Officer ; both intending, notwithstanding their expressions, a just latitude

latitude to the Supream Power, but specially exalting Christ and his Kingdom above all, yea though alledging the very words of the Pope, That no Christian Magistrate but must be a Church-Member, and so inferior to the Church it self, whereof he is a member; for the Officers as he is a member, must give him the Rule, or the Congregation, yea though he were a Pastor or Elder himself.

I conceive this short Tract, wherein so many particulars are briefly hinted, onely to draw them into discussion, is not fit to open that controverse, which must be with much Wisdom, Prudence, Judgement, and ability of divine Learning discussed, or it will but cloud more, and tend to heighten the differences of interest twixt Church and State: I shall therefore (for the present at least) forbear to open that Controverse, and look onely at the Magistrates duty generally; for his power, I make it the Handmade onely to his duty.

Religion therefore being the proper object of the spirit of the inward man, is not the proper subject for the Magistrate as a man, nor of his power, no not though a Christian.

Yet while there are Hypocrites in the world, and the Notion of Religion may veil Treasons and Obliquities to the State, being and well-being of the neighbour; it is the Magistrates duty to see to these, as before; but as to the particular contentions of Christians, in, and concerning, or Doctrine, or Discipline, it is not clear that the Magistrate hath ought to do in it, while the outward peace be not disturbed thereby; I will exemplifie generally.

Suppose the Doctrinal Quare be, How many Sacraments? Or whether Baptism came in lieu of Circumcision, or dissent from the particular seventh day as a Sabbath, and the like.

We see plainly, that while the Magistrate used his power according to his opinion, as the Magistrate inclined, so matters went generally; and the opposites in opinion oft crucified each other, seldom converted.

Therefore assuredly, in these difficulties of Faith among Christians, let the Admonitions, Exhortations, Perswasions, Convincements of the Church be urged, let not outward force be used.

It is well known, the great cause of our Embroilments now, is the difference pretended, betwixt those of the Congregational way, and those of the Parishional Disciplined way; I have purposely omitted this matter to this conclusion of the Work, to sum up all; for it is plain, the Controverse stands thus, as is hinted in the first Part,

Whether the Churches are to be gathered anew?

Now to understand this fully, it is to be noted, That the Church of *England* is counted Schismatical by *Rome*, renting from her, as supposing she had so far parted from the Doctrine of Christ, as that there was no possible just Christian Communion with her, which the Puritan must still hold, that is, the true Prelbyter.

They all agree a Reformation necessary.

But they of the Congregational way suppose it cannot be a Reformation, but such as is a new Congregating; that is, they own indeed what the Puritan supposed; That truly such was the Apostacy of *Rome*, that there is nothing to be done with her; they own her not the Spouse of Christ, but a Harlot *Israel*, and *England* her sister in the old way.

And it is most sure, compare the Doctrine of Christians, as to all sorts of men and women, and all the actions of their lives; And assuredly, the beginning of Heathen Governments from the light of Nature, gave forth greater and more glorious examples of Piety, Justice, Mercy, Fortitude, Truth, Charity, Love, and that to Enemies; Gratitude, Obedience to their Country, and to them set over them in any kind, and zeal for their gods; which I commend onely as far as it walked even pace with their profession, then there is to be found among Christians, and among Princes where they devoted themselves to their Country and people, as among the both *Greeks* and *Romans*, &c.

We have justly banished Superstition, and wickedly given free scope to profaneness; the lives of the best are so farsed with the rudiments of the flesh, in eating, drinking,

drinking, cloathing, and exercising inordinately, and in immoderate care to maintain these, that the Gospel is become a scandal and a stumbling block to many that are entred the School of Christ, and have been mortified by many acerbities.

Yea, these have I seen to give way in their old Age to the vanities of youth, and that as might be feared through pride that God had given them a sight of what they perwaded themselves to be the truth.

But that which is the spreading incurable disease of Christendom so called, is, the looking to others mostly, and neglecting self, gadding and tatling, and the like, &c.

Now of all these assuredly there is evident power in the Magistrate to repress them, whether in the excessive vanity, in eating, drinking, cloathing or gameing; but those more inward and heart vanities are to be repressed by a general prudent Government. The example of those in Authority, and power, and their due exercise of that power where needful, is the great incentive to excellent vertue.

Now the contest of the Presbyter for a punishing power, and his looseness in admitting Members to his Church, makes the Eagle-sighted Magistrate jealous that what ever is acted by holy and religious men at first faithfully, yet if holding forth a liberty of Contention for Supremacy, some will attempt in time to claim of duty, while there are Wolves which will for lucre and interest sake put themselves in Sheeps cloathing, as heretofore hath been evidenced. But this the Magistrate in the present Age must eye wisely and justly; that is, resolving that the Lord Christ hath a Supremacy, which he must be always ready to acknowledge, and also to give unto him.

Now in the contest for the constituting of Churches otherwile then as it gives just cause of disturbance to the peace of the Commonwealth, I see not that the Magistrate hath ought to do; It is yet a matter of scruple to many good Christians, what Church there is in *England*, for that the Church is constituted National.

I believe most pretenders to Morality are ashamed of it, plainly seeing, that it is not the Baptism of Water that makes a Christian, but that of the Spirit; and the same delusion works upon men to rest upon Signs and Forms under the Gospel as under the Law.

Yet the outward Church-fellowship, that is the first so called sign of a true Church being with them, that is the Sacraments, and that profitable Sacrament of a Priest to administer them, makes all within the Church, though there be no Officers, or them but meer Lay-men, so called Church Wardens, and Over-seers; and of these incon-
sistencies, and incongruities are our Parishes framed.

Let me therefore to clear things to the world a little open the Quare of the Congregational way of all sorts, and their Opponents.

1. First, Whether in so great an Apostacy as the very Form of a Church seems to be lost, there ought not to be an agreement of Doctrine and Discipline according to the Primitive Rule, and meerly according to that to lay the foundation of Church-fellowship.
2. Secondly, Whether in the admission to such fellowship in such an Apostacy, and when yet the profession brings along with it no danger to life or goods, there ought not to be a strict examination, and from that some apparent signs of real holiness, and true faith, with some measure of knowledge.
3. Thirdly, Whether the Members ought not by an exprefs agreement made between them and the Church, to which they Associate, assent to that Doctrine and Discipline, and promise obedience to the same.
4. Fourthly, Whether these Members are to be admitted as they shall voluntarily and of their own will associate, or as they inhabite, which is called Parishes.
5. Fifthly, In whom the power of Admission and exclusion of Members rests (or to speak it in the Prelatick phrase) Whether the Superintendent Pastor, Bishop, Officers, that is, the Clasis respectively, or the Brethren, that is the whole Company of Believers, not excluding Pastor and Officers, have the power of the Keyes, that is, may exercise all Ecclesiastick Jurisdiction save onely in the Sacraments.

Sixthly,

Sixthly, Whether the limited Congregations, and that either in respect of multitude or bounds be warranted by the word of God.

6.

Seventhly, Whether they are to meet in one certain place.

7.

Eighthly, What is the proper work of the ministry, viz. (whether conversion of unconverted ones) (which must suppose with us some baptized not converted) or only the confirmation and edification of Church members.

8.

Ninthly, Whether the Pastors, &c. of particular Churches may not only teach to confirming and edifying of sister-Churches, but also perform all other Acts of Pastorall, &c. Office.

9.

Tenthly, Whether prophesie ceases, or be a perpetual institution, so that they who bear no Church Office, may exercise their gifts as brethren, (which they oft do to the shame of the present so called Ministry, excelling them not only in life, but Doctrine, and also in the gifts of admonition, instruction, confutation, reprehension, perswasion and consolation of the hearers) and that the body of the Church present.

10.

Now to clear this, It is controverted, but not yet by the Congregation publicly.

1.

First, Whether there be an infallible Ministry, not as teaching by an infallible word and giving fallible expositions, but such as in their at least publike administrations have an infallible Spirit to guide them.

The reason of this Quære is of principall concernment; for if such there be, then assuredly their work is extraordinary, and then a settled maintainance for extraordinary men will to most judicious men seem incongruous, and if out of a settled place, more dissonant from the univerfall engagement which by the mission apostolical is upon those endowed with such a Spirit.

If there be no such men, and that that spirit visibly is not existent in such men among us; Then the Quære is by what Rule or upon what ground, Apostolical Succession is claimed without Apostolical Spirits.

And then upon what ground they become Teachers of the people. If it be said from humane Learning, then the work is by some thought properly the subject, if not sily, of the Magistrates power, and cognizance.

If it be said Divine purely, then it is answered before, and must be proved either by the expres word, or working of the Spirit, or both; if mixt, that is grounded upon a Divine and infallible word, but subject to a fallible construction: Then we are in the round, for none will acknowledge their own opinion faulty.

By this it will appear that the particular Christian is the keeper of the first Table, for none of these are in the whole infallible, Popes, Councils, Bishops, Elders, Classes, Congregations, all erring, wandering, pleading infallibility and demonstrating themselves fallible.

For the age and Qualifications of Pastors and Teachers, I altogether omit it, presuming if the greater be settled, the lesser will also.

The Question concerning the Admission of Infants to baptisme I omit, with the ancient Rites of Baptisme where the persons baptized stood up and received the Sacrament: And only say that if no Rule were originally given for baptizing in Fonts instead of fountains, no nor practised in the most flourishing times of the Church in all places Christian, yet after commanded, then assuredly if the Church hath that latitude in the form, take it only so of a Sacrament, There is not so much amis in Romes Mass as is supposed; and if the Church hath not that power, there is more amis even in the purcl reformed Congregations then is yet discovered: And if so, then surely the Power of the Church must rest in dispensing duly the plain word for edification, exhortation, confutation, reproof, or exercising the discipline in rejecting the obstinate and disobedient.

And in doubtfulls and indifferents Christian Liberty must consist; provided that Liberty be not destructive to the civil peace in word or deed, or evidently tending thereto.

This now will allow both Magistrates and Congregation a respective bound, whereby both Antichrist Lay and Clerick may not domineer, to the disturbing of Conscience;

for if in in *Pauls* time one eat flesh, another Herbs , one meat sacrificed to idols,others not, some kept dayes,others not:

Why this Ado , especially with Christians in a Church way ? for in the Magistratrick order surely he may (however he will) enforce , not prophaning the day he appoints as aforesaid ; and though they onely of his opinion keep it regularly,yet none of any opinion shall despise it and him irregularly , and if they do and go unpunished,be assured the Magistrate is in the greatest fault,he is or loose,or lazy,or both.

So for maintenance in this way , the Magistrate may clearly settle it and ought, (and that onely from a publike maintenance) for otherwise his people will grow pure beasts in the form and shape of men ; and to these he ought to settle a maintenance competent ; for humane industry is capable of humane satisfaction ; this as Teachers ; but as Pastors , let the additionall maintenance be as Christian duty requires.

Now to settle it as Tythes, were the What , and how, and where , and when, and to whom well settled , it cannot be unlawfull , that is to give a tenth ; but to admit it as of duty to the Minister as to the Priest, to plead customes of and for Tything, as well as to deny customes of not Tything, are all equally absurd , if throughly scanned ; A maintenance , and that onely , is agreed due by all to them that Labour in the word and Doctrine ; but the whole Ministry hath with us been so Generally corrupted , that not onely men have made or pretended conscience to pay any Tythes to such wolves in sheepe Cloathing , but from the vanity, wickedness and perversness of these men of corrupt minds, have questioned whither a ministry be.

Here is a hard task for the Magistrate ; for he hath been necessitated to take that power into his hands, which at first himself questioned whither it were lawfull for him or not, but attempting and finding no danger present , the fear is now least he should not let go his hold.

I presume this is clear , he may and will declare if he have any Religion, which he approves ; this is most naturall ; that he will establish what he consents not to,who can perswade himself of it ? all that I can say is,if he be a Christian , let him with all meekness and in the evidence of truth by all Christian means labour to win all, but to enforce none but the wicked and disobedient to just and righteous Lawes ; The want of which is the great disgust of all good men : but I shall not enlarge here of that.

The Churches power then consisting principally, if not wholly, in things plain and evident, it is most certain that the Magistrates Power in ordinary ought not to stretch so high,much less exceed ; that is to help where that with humane thoughts seems to come short,as the Church hath hitherto held ;

Now in this I shall speak one word to the great and weighty consideration of the Supremacy of power , and whither , and how , there be , or may be Two Supreams, which will a little clear up the way for amity amongst so called Christians of all opinions.

First we must consider the rise of the controveſie is from the word of God in all the new Testament , wherein all words of saving knowledge are directed soly, wholy and onely to the Elect , Saints at least by calling and profession (which in their season some think, nay beleieve shall govern the world) and at these as called out of the way of the world, to a more holy and spirituall serving of him.

Now some suppose this was to be done onely in a Church way, which both Papift, Greek Church and Protestants of all fides agree, that is, that the Magistrate Ruling among Christians in ordinary ought to be a Christian.

Now faith the Church of Rome, and all, as a Christian he must be a member of some visible Church ; if so, he must be subordinate to the Pope , and a generall Councell faith the Pope ; to a generall Councell and Fathers of the Church, say the Biblers of old : To a generall Councell and the Kirke, say both the Lutheran and Calvinistical Divines ; All which, place the Power of the Church Authoritatively in the Officers or Officer Supream.

Now those of the Congregational way of all sorts distinguish as the rest do.

First

First in that the Supream Magistrates are men, and so members of Churches, they are Subject to the Discipline of the respective Congregations and Churches, but as Magistrates they are distinct Officers in the world for the good of all men, and the peaceable and quiet Governing of those committed by God to their charge.

Now as a member, he is inferior to the whole; And as a man he is Subject to Ordinances; But as a Prince, he is not Subject to the Church; for as the Prince cannot as Prince perform the Offices of a Pastor:

So neither can the Pastor, Officers of one or more Churches, intermeddle with the ruling power of the Prince as a Pastor or Church Officers, in any of their opinions.

Now for Supremacy, they who are Christian Princes and Pastors, will not strive for the Supremacy of Power, but keep their fixt places. All Saints are now the Kings, Priests, and Prophets of the most High God; But more especially the chief Magistrate in Ruling represents the Kingly Office of the Lord Christ; and the Pastors and teachers the Priestly and Prophetical.

The Prince Governs the Commonwealth according to the Judiciall Law of the Almighty God, the Law of pure righteousness laid forth in both the Testaments; And the Pastors and Teachers and Elders Govern the Church in dispensing the Ordinances and Rules of the Gospel: the Pastor principally if not only in Preaching of the Doctrinall part of Christianitie; the brethren appointed to teach, in opening the practicall part of Christianitie.

I know that some hold, that all ought to come under the pure notion of Church Government, and all Magistrates to Rule as Church Officers; I allow it fit to be Queried; but I presume it is the wickedness of our present age blinds our eyes, that we see not all that all of them who pretend to sinceritie desire; And I see not, notwithstanding our variety of opinions, but that all that have not the mark of the beast, shall sit down with *Abraham, Isaac and Jacob*, in the Kingdom of Heaven.

By this it is plain there is in the Church of Christ, the Lord Christs Substitutes in Governing the Nations by the materiall sword according to a Law of righteousness, and Justice, which man may comprehend.

And there is the Lord Christs Substitutes in holding forth to the severall Churches the Gospel of Love; the one hath the sword of Justice, the other that of the Spirit.

In the order of Government, the Pastors and all the Saints must submit to the Supream Magistrate as to Christ the King.

As a Christian, the Magistrate must submit to the Doctrine and Discipline of the Church of Christ, as a member of that body whereof Christ is the head, as a member, a Christian, subject to the Ordinances of the Gospel: As a Prince ruling justly those committed to his charge.

It will be thought that this admitting of the Prince subject as a member, will make his power subservient to the end of that particular Congregation to which he is associated; And this will breed Emulation, and at last division; Now let this throughly be considered in the cause original; and the head of this fountain of bitterness being stopped, the streams it is hoped will be dried up.

From whence doth all this proceed but from the opinion of the benefit of uniformity, and from thence the necessity? and thus we War, that we might have peace, and instead of convincing by Love, and waiting the appointed time, when the vision will assuredly make haste and come, and will not tarry, we enforce; labouring as we think by humane wisdom, politiquely to prevent the evils we imagine may grow to a disturbance of the Peace of the Church; And surely this pride of heart and humane Wisdom, this thinking so well of our selves, and looking at the opinions of Christians more then the lives and conversations, which is next to the eye of every man, and whereby God, and Christ, and the Gospel is visibly dishonoured, is the source or spring of the quarrels of Christians: our duty in practicall Christianity is so plain, and our conversation so contrary, that it is the Wonderment of a Moralist, and all our divisions for Church Government.

Power, oh had we Power.

And what brethren, could you do with your Power? could you raze one opinion out of the heart of any conscientious man, now after so many thousand yeers (man leave this vanity) Christian, now after sixteen hundred yeers, learn to know the motions of the heart are only in the hand of the Lord; teach in season, and out of season, to draw to the Faith; but let the Spirit of man be convinced of the duty of Faith; What sense and reason, is capable of in the plain Law, enforce so far as to secure the peace, and expiate justly the offence.

For the Quare of the power of Churches one over the other, I suppose it is beaten sufficiently, and in whom the Power of settling of Pastors, and Power of excommunication rests.

I shall now proceed, and as a necessary Quare treat a little

First of Impropropriations, and then of Prescriptions?

Impropropriations to speak plainly, are of two sorts; the first called appropriations being the granting presentative benefits to Religious houses; The other was the freeing of such Lands as were given to Religious houses, from the payment of Tythes; the ground of this was the supposed virtue that was in the prayers of these Religious persons; but indeed there was a knot of carnall Policy also, which was to keep the people ignorant by admitting little preaching, which was counted the mother and nurse of Sedition.

Now this Arrow came not only out of the Popes quiver, but secular so called Princes, after he began, followed, till at length the Abbyes, Monasteries, Fryeries, &c. had, abounding in riches, and thereby abounding in ease, growing Luxurious and sinfull beyond belief, fulfilled the measure of their iniquities; and Henry the 8. was the instrument as aforesaid to plague them, who yet looking rather at Lucre and Power temporall, then Religious duty, did not return the Benefices and Tythes into the Ancient course, but conveyed them still along to the owners of the Lands of those Monasteries, &c. to which they were annexed as they are still continued.

Now as many had such things by particular grant, so others held them, and some other onely by prescription; but the not doing of three or four things, makes Reformation difficult.

First the not ordering all Christians in a Congregational way, either limited or parochiall, or absolute, which is best, without which a choice of a just, safe and equall representative (Christian) will never be.

Next the not ordering all Annexations and Impropropriations into the Common stock, for the maintenance of teachers Humane and Divine.

Thirdly the discharging of all prescriptions, customes, Grants, &c. of particular privilege of old, either of places, times or persons.

Lastly, the settling one Law weight, measure and tenure precisely throughout the Nation. Now to speak one word of prescription, I take it to be but only the continued Right of a particular person, or family, or now of a Corporation, Township, &c. So that upon due and full search, it seems to me no more then a custome in many places and cases.

Now for this, the time of prescription ought to be set certain; next the same ought after once pleaded, to be settled and published just as a custome, so that no publike Right may not be publikely known, and the Justice of it owned; for many prescriptions are as unjust as many customes, and equally to be disallowed, as arising upon false grounds, evil in themselves, or tending to the dammage of the publike. I now come to Quare

What Law the Christian Magistrate ought
to settle.

This I suppose many will accompt a needless quære, both in respect that the law judicial generally is formerly asserted requisite to be the head law, and also a forme or kinde of settled proceeding in law, agreed to be principally according to the reason of the common law so called of the Nation, herein laid down as grounded on the word of God.

But my intent is a little to discuss the rights of the so called common law, and civil Law, and whither it be fit to allow such divers courts of so called divers laws, and to search shortly whether they were originally one and the same, or not, which I really suppose they were; for it is evident that although the first writers of our laws use not the forme of words of the civil law, dividing the law into the tomes of the *Digest*, the *Code*, the *Authentick*, and the *Fests*;

Yet the rule of *Justinians Institutes* which are an epitome of the *Digest*, is by them wholly observed.

Now the *Digest* or *Pandæct*, that is the new called *Institutes* (for they are various in names) I agree to be but the drawing of the multitude of particular opinions and judgements of many venerable sages of the Law into one settled body of Law, containing variety of learning, upon particular Titles of law or head laws, which laws being grown exceeding voluminous and intricate, the English neglected them; and few being learned, they were under the sword dispensed with, and politiquely brought into the Closet of the Conquerors breast; and as the condition of the Nation required, were enlarged or streightned at pleasure: And upon interest only, the municipal law or customary Law of the people was by some settled in opposition to the so called civil Law.

Now this interest was partly of Princes, who found the Civilian still to draw strongly towards the advancement of Papall interest; partly of the practicer, who hereby siding with the Prince, at last drew the Civilian into a narrow room, and got the name of common lawyer, as studious of that law which was used and received among the people by tradition generally, and in time they got preheminences and liberties as we have seen established.

We have known the great strifes that have been in these courts not out of conscience of the interest of justice to be either more faithfully, or more speedily, and at a due rate executed, but to bring grist to the Mill, as the ministers glory was to have a multitude of Auditors, no matter how few Christians, they would but scan his Doctrine, question his life, and unless he were more worthy, scruple adding more to his former abundance.

So these mens honor, was, to have their courts packed with sutors, that the several practicer from the Judge to the dore-keeper might have his Fee; from these shifts grew the so called prohibitions, consultations, &c. And the poor Sutor was undone, while the Courts admitted First with ease the Quære, and then eagerly prosecuted their own dues and rights before his could be determined, which was ever slow-paced enough.

This evidences the necessity of settled Fees in all places, and that from the supream Magistrate; This also clears the case that the supream Magistrate must admit but one Law in practice and proceeding, nor one sort of Lawyers; he may for the advance of learning order the study of it in Latin and all the exercises.

But the practise all ought assuredly to be in the vulgar tongue of the Nation, and in that tongue to be constantly printed, and also all precepts and processses of the Courts whatsoever; for the pure executing of justice is more to be eyed then humane learning; For as in the Ecclesiastick State, when the ordinances of men and unction of men are preferred above, and justle out the ordinances and unction of the Lord, the Church is Apostate.

So when interests overtop justice, and justice and righteousness are become Nominal, Topical heads, Hypocritical Colours to wilder the people, the State is also Apostate ; and as long as either of these work in Church or State, the Apostacy, the fatal ruining Antichristian Apostacy reigns.

Therefore all the Courts of a well constituted Nation, a Nation that seeks the welfare and freedome of her people indeed, must have a body of Law proper to the Nation, and this must as before, be so settled, that every Subject may in due just and evident way partake the benefit of it ; therefore it must all be common, and keep that name, that weak ones may not be offended, what Law soever be settled ; for it is most properly belonging to the Community.

Lastly, admit as little form as may be, yet I would settle the habits of Judges and practizers in all Courts, but by way of honor ; for I intend but this one word, the glory of form is lost where form is made Common, Scarlet, the ornament of Judges is the guard of a Groom in these daies.

Whither offices may be put to sale.

In a word this is the plain inlet to all corruption; admit this and your settlement must totter ; to distinguish bewixt judicial places and other, is but to hook in a liberty to unlawful things by degrees ; for all are officers tending to the execution of Justice, and it is unjust to pay too much, and to stay too long for justice, as well as to be denied justice, or have false justice ; Admit such practises, and all evasions of Law will be not only studied but practised ; one evill admitted, a thousand follow.

That just and honest and wiser men have done it, and do it, is not worth the while ; the short answer is, there is no man but errs. And soonest in matters of interest, much more where custome signes the lawfulness of it ; but a word to what makes it seem lawful.

Suppose the place be eighteen hundred pounds *per annum* accompted, as the Chancellours was in the late Kings time ; and Sir John Finch pay so much annually, *viz.* Two thousand pound to Duke Hamilton, Two thousand to Lord A. and at last hath four or five thousand pound a year only to himself.

So the Prothonotary of the Common Pleas to pay eleven thousand pounds for his place, and have eleven, twelve, thirteen, fourteen, fifteen hundred or two thousand pounds a year, had he not better have had it freely, and only five hundred, then if he had died within a year, left his only daughter a beggar, and his Friends engaged only to purchase a more then necessary allowance ? I could set down who had this money, how it was shared, unless wise and honest men then misinformed me.

By this it is clear, that there may be a sufficiency to settle the interests of the supream Magistrate, if they have wise and honest men to carry on the work, upon foundations of certain Justice, and pay every officer, and the Supream Magistrate to be a gainer, however no looser, but the people to be surely advantaged in the just procedure and Issue of their litigations.

Now for the choice of Officers it is settled before ; both in the qualification honest and skilled ; and in due manner approved ; and in places of many Officers, where aptness is by the course of succession, if no objection bee, is most plausible, but not to be tied to it.

Now the way to have good Officers, is to settle eminently just Judges ; and to gain them, is not to have too many ; and in yong States or beginnings this is of absolute necessity, for without it ruine is unavoidable.

*The necessity of educating Sea-men, and the way of breeding them,
and from that of the Politique Law to restrain eating of
Flesh.*

This quere is of great concernment to This Nation and Island ; God is our support ; but the means which the Lord affords us, are not to be neglected.

Therefore in the first place we shall look at the way of encreasing, and breeding Mariners.

I suppose it is clear to most intelligent men, that by the fishery, there by long being abroad in stormy seasons, and high Seas, whither great gain invites them, they become not only inured to the Sea, but grow hardned and dreadless, their experience being much more then either a Merchant or man of War can achieve ; So that where they breed one able Mariner, a poor North Sea-man breeds Ten. And indeed from these are your great Ships manned.

I must therefore be the care of the Supreme Magistrate especially to provide for even these.

The first care is that they may fish safely, therefore the convoy ought to be sufficient.

Next when they come home, there must be vent for the fish ; The obstacle is the old superstition of the Lent, or the Forty dayes fast : the just and prudent Magistrate can easily remedy this, by making it Twenty eight or Thirty daies.

There is an objection or two against the season.

First religious or so supposed, just before Easter, and carries the time of superstition : settle it to begin upon a certain day of the Month yearly and that scruple is gone.

The next is Physical : then is the return of the year, and our bodies which should then receive best nourishment, are filled by fish with cold and flatulent nourishment ; this may seem much to some, but it is not worth the while : for suppose there were nor flesh nor fish, there is variety of meats to live on for a month in England.

But I suppose two daies in a week truly observed to have no flesh spent were better ; for see how Lent was kept : lay in so much flesh before as served the household ; And so it would be, ye will say, for two dayes in a week ; I agree it ; therefore I say truly observed : therefore as in the historical part I propound that the reason of every law be divulged, and conscience from conviction of the benefit of it engaged to obedience, and no way like that, as the examples of Catholique abstinence now manifest.

But if the Magistrate would use force, I shall offer the best and most reasonable way, which is to send to every household in every town so many fish at an equal and set rate by him, according to the number of his family, so many fish for every head by the year, accompting two daies in the week wholly for fish.

Now the benefit of the preservation of yong Cattell, is great and warily to be provided for : therefore let the Magistrate enact, that all Lambe killed before such a day shall be forfeited, and the killer and eater to forfeit a price.

So no Chicken, Turkey, Duck or Goose till such an age, no Rabbit till Midsummer ; And that in Two great respects.

First, till that time they bear little grouch, and do not much harme if well looked too.

Secondly the wool and skin is then serviceable.

Now for Calves, the laws for rearing of yong Cattell must be made in them

them more certain ; for Bull Calves needs not in many places to be preserved equally as others ; some also are plainly unfit for to be reared, at least by opinion ; Therefore there must be a loose to them more then others.

But to settle all, to provide that every second, third, fourth or fifth Calfe be reared up, or so much paid to the hayward of the Town ; And every Town to have one, seems easie and feazible.

*Whither losses at Sea by Piracy ought to be satisfied,
by whom and how.*

ASSuredly the taking of customes, &c. engages the Supream Magistrate to the guard of the Sea ; now this done, many think the work is done, and customes are due clearly ; but the Subject must bear his private loss.

Others Christianlike say that there are providences which none can eschew, and for these each one must bear his own burthen. Next there are remote places wherein Traffique is thought settled ; Yet clearly in dominions of other Princes and States, and that for any Supream Magistrate to assure their Subjects in all places, is impossible. Therefore the Engagement of the Magistrate must be settled.

First that the Piracy be within such a precinct or bound.

Secondly that it be a vessel of the Nation.

Thirdly of goods lawful, but not that if any goods unlawful were in the Ship, no recompence be, but that recompence be only for lawful, that is not goods prohibited, whether for importation or exportation.

Fourthly to a Subject of the Nation, in other cases let the customes of Nations prevail.

But in thele cases it is just that Recompence be to the losers by the Supream Magistrate out of prizes taken by his men of War, which ought therefore to be valeded, and returnes made Annually to the losers as their losses are proved in time ; allwaies provided a high punishment, bee to him or them abuse the State.

Now there is great difficulty made of the proof of these things. But we perceive it is easie to the State if the Governors have a minde ; for the lading will appear in the Bill or Cocket if they have it ; if not, and

That that be miscarried, they can have what they can claime out of the office from whence they sailed ; And the Principal Merchants can quickly make out the work ; especially if all Merchants be brought under rules of Trade as they ought to be, what ever is yet alledged to the Contrary.

*How all Accompts for the Common Wealth
are to be settled &c.*

THIS ought also to be done in the several Counties ; there, are the men best known and their dealing.

Admit complaints to men impowered, and that with speedy and due Justice, and small charge, and men in conscience will complain oft, where little or no cause is ; but that is quickly ended.

But make it difficult, and Envy and Malice are the only accusers ; men do accuse then not of but out of conscience only.

Let the times be set positively wherein to have all accompts cleared, and yet let none be called to accompt upon error after a set time ; for I would have all formal accompts cleared and burnt once in seven years, they are not worth the keeping ; let the Auditors be carefully assigned, who are to prove the accompts, and let the punishment be

be in case of Error or Arrears securing estate, till cleared, and the person, except good Sureties be ; for it is clear, it is the due prosecution of justice is the great privilege ; and if nothing but securing persons will keep them in due order, let the work be done.

For the Judges, they must have power to call to account as oft as they see cause, but all to be ended with the year as aforesaid.

And let all Treasurers and Officers have their fees from the State, as before.

Next let them have their offices onely during well abearing, and so much in the pound truly for all discoveries of deceits, and the work will manage it self, especially if once the erroneous principle of conceiving it unchristian and unbrotherlike for a brother to enform of a brother be beaten out of the world.

*In whom is the Right and Power of Calling
Councils.*

THIS is a great Question, much ado is made concerning it in the world, and yet all to little purpose ; for that most spend their time onely in treating what was done ; but few upon what right it was founded.

It is not, nor cannot be intended here, who should Congregate the people in Civil Matters.

No, it is intended in Questions doubtful, troubling the peace of the Churches of God.

Now it is plain, by what hath been said before, that the latitude of the Magistrates power in these cases, is only the preservation of the publick Peace ; otherwise he hath but the relation of a private Christian.

Therefore as Emperour, King, or State, to settle, or convene a Colloque, Assembly, Dyer, or Council, Provincial or General, he hath no Power in a Church-way.

It must be only prudentiall, to assure or continue the publick peace in the best way they may, wherein all things that are not unlawfull and be expedient, become lawful.

But to assure the jealousie of the Supream power, it is not requisite to have such publick Conventions without the Magistrates permission ; but to turn this sufferance into a Right, was an Error.

Again, for the Churches to desire the Magistrates permission, and after to enforce a Grant, or summon without, was a greater fault ; for their profession admits less deviation ; just Magistrates will not deny the Churches lawful meetings, while the Churches seek but lawful things lawfully.

Now as the Churches have the first insight, as by Office, into Church Errors, it is their duty to consult a remedy ; and if a meeting of some few Churches, yea be it provinciall, shall be required, till error arise, it may not be unlawfull ; they have the Right.

But if the Magistrate upon error settle a Law to prevent that error, (further the Magistrate ought not to go, and so far he may) then the Churches ought to observe that Law ; But in case of Error, or such Conventions as are possibly dangerous to the Civil Peace, the Supream Magistrate ought to be advised, and ought to be obeyed, if dissenting, yea though his dissent be not in some eyes well grounded ; for this evil is the least, however experience hath manifested in a superstitious Age the Churchman prevails, in a swording the Magistrate.

What I have written, may to many seem doubtful, to whom the power of Right belongs.

But the plain meaning is this ; This being a Church-Affair, an Assembly for the settlement of conscience, it is the proper work of the Churches.

And if the Churches have power over one the other, as in the Popish, Episcopal, and Presbyterian way ; the Summons ought *De jure* to move from the Church, but the Magistrate may prohibit, and ought to be obeyed ; but divers Churches dissenting this in fact, caused first an address to the Imperial Power, and so it would do again ; also the very Congregating such Members into one place, ought, both for the safety of them that meete, and the place where they meete, and of the whole State, to be not onely with the knowledge, but the approbation of the Supream Magistrate ; and the rather, for that though those elected ought to go, yet no Christian may be debarred ; this in that way, and in the Congregational way more clearly will assure, that though the busines be a Church busines, and concerning matters of meer conscience : yet the great matter, is, as they are men, to consult of difficulties and this is the Church-work ; and therefore the Magistrate ought not to prescribe the Christians met what to propound.

For I presume, That ought to be long before manifested ; first, in the private Congregation, then in the adjoyning Churches, yea, in publike Conventions.

There is another part of the Quære, that is, Whether the Magistrate may summon without the Churches prayer ?

Now as to the right, assuredly as a Father of the Country principally intrusted for the good, welfare, and peace of his people, and as a Christian taking notice of unchristian Controversies, he may invite assembling the Churches, and may require it, but ought not enforce untill the civil Peace be actually disturbed ; he leaves the sin at their door. This root of bitterness arose from thoughts of the necessity of remeding what was amiss, and venturing all for that, which is true and false : A false colour of truth with a real mistake ; the Magistrate cannot enforce here ; the Church must have its due liberty here ; otherwise we must admit by the Rule of Contraries, the like power to the Church against the Magistrate offending.

No, let each keep their place, and if the Magistrate will amend the Church, let it be by Preaching, not fighting ; let them come that will upon his call, let him perswade the other, not enforce actually (politickly he may) no not though all that come agree with him.

But I am confident, Take away the interest of Power and Revenue, and the Spring of all these controversies will be dried up ; for the matter is clear in it self, and by most so agreed.

I could enlarge much in this, and all the heads that I have treated on.

I could have multiplied Quæries to delight the Ear, and make the Book more Merchantable in this Age ; I could have scattered witty varieties, Recorded old Histories, and enterwoven new Stories, to have delighted a feminine fancy ; I could have so polished my phrase, and trimmed my discourse, that it should have stoln away the heart of a light youngling, and like a *Romance* fettered him in a clew of delights, till he had come to the end of the Book and been never the wiser.

But as the first thing moved me to this Work, was the serious apprehension of the bitter Cup the Lord had put into the hand of the Inhabitants of this Nation to drink, and what God had done in *Germany* ; when my soul considered the deadly defiances among men so called Christians ; not onely Nation against Nation, but they of the same Nation one against the other :

When I eyed the Threats and Promises of the Word of the Eternal God, Revolved his Acts of old, and at present done amongst us ; comparing the Professions and Practices of Christians ; and that though we had light above others, yet our sins were more grievous then others ; but most of all was my spirit affected with the many engagements which lay upon the Nation ; For this light drew from us on all sides, Royal, and Parliamentary, and that under what notion, or name, or opinion soever you will rank them, Promises and Vows of settling Truth and Righteousness ; King, Parliament, and People, all seeing the Errors in Church and State ; a bare name, no face, if a footstep of pure Christianity. This in the first place put me upon a more serious way of Writing ; and in the second place, the multitude of my occasions would not permit the idle time to clip, and pare, and file, when I was forced to steal time, to cast and mould the matter of this Discourse by a quarter of the hour to day, and as much

much the next, seldom an hour together, and then happily not of a week, two, or three, sometimes not of a moneth after ; This will render me to a wise man over zealous, and over-confident, to rush so unadvisedly into such a great undertaking as it doth attempt the holding forth, though but in *Essay*, the frame of a *Civil Christian Government* ; and they that know me will say,

Have so many Ages passed ? Are so many wise men at present ? And none to undertake it, but one so young, a man not able for time to have digested in any part the voluminous *Tracts*, which he that but offers at such an *Essay* ought to have gone through ; and to do all this *raptim*, and that by snatches, which required the most serious thoughts.

Lastly, A man that practised the Law of *England* so short a while, that he could not comprehend the Ambages of it ; and for eminency of parts, a man of no Renown, the world hath not taken notice of him.

I know this, as to others, will be the whispers and speakings concerning Me, and this Work ; It is not presumption of my Abilities, nor to gain applause that I adventure upon this Work ; my heart was fired within me, when after so many reiterated undertakings for Righteousness, Justice, &c. I saw the VWork so far off from perfection, that it was worse then before.

I waited, attended, hoped, prayed, and all, yea incited men able, and skilled in the Laws of the Land, by long study, and approved parts : They agreed Error in the whole, a necessity of Reformation, and that even by a Transubstantiation not Consubstantiation ; for they agreed the whole Law was, as it is, devolved into Form and Practise ; the pure streams of Justice, were as they fell from the fountain of Divine and Moral Reason, drawn by Art into private Cisterns of Profit and Honour.

But they durst not undertake the VWork.

I desired then, considering my many occasions, That they would but impart something to me, to help me in my so great attempt ; I talked with some Attorneys to the same purpose ; and from two men I received two Papers, shewing the abuse of damage clear and suing out the *Cap. utlagars*, the most ordinary matters.

I then addressed my self to some men eminent in Honor, and places of Trust ; discovered my minde ; we argued ; I saw they were convinced of the truth of the thing, and were resolved, were the Law altered, they should submit, yea even to what I then and here propounded.

But they would have no hand in it ; they had no time, they had spent their Studies in the present Law, and to change was a new work ; Some advised me to leave off these thoughts, and fall to Practise, they would warrant me I should get as much as any of them ; After long delays, consulting my own Strength, and seeing Judges, Serjeants, Councillors, Attorneys, Solicitors, and All, confessed Alteration necessary, delays evident, Justice uncertain, Equity more ruining then undoing Common Law.

I did partly out of the sence of the unjustnes and wickedness of the Law, but principally that I might be out of the lash of a credit Ruining frown, leave all Practise whatsoever, as I had formerly left the most, and did consult which way to take to open in the most Christian way, the Evils of the Apostate State, and Commonwealth ; and how to offer an expedient suitable to the condition of the people wedded to Laws and Customs called their own.

This is that which the Lord put me upon ; I have avoided to my utmost all bitterness, and just occasion of offence to any, either Powers, or persons : And to any man shall require a further account of the hope that is in me concerning matter of Conscience, or of the matter of Law, and the Reasons herein offered, so it be with Christian meeknes and zeal for the Truth, according to my knowledge, I shall freely discover my self, and yield I hope, a satisfactory answer.

For I assert, there is nothing here laid down in any kind, as to the civil Regiment, not warranted by the present (so called) Law-books of *England* ; I restrain not my self to the so called Year-Books.

For the scantnes of my time, I could have wished more, and more abilities, and that both natural and experimental ; but you must take it as it is ; onely an *Essay* for a

Settlement of a Christian Commonwealth, I leave the Work to such as Providence shall call out of the many present Worthies of *Englands* Labourers.

Me thinks, *England* labours like a woman in sore pangs of Travel, crying out to be delivered; I pray God none of the Midwives *Juno* like set cross-legg'd in the Temple of honor, profit, power, or the like. O that every one could banish all interests, and all Relations for Christs sake.

I know abundance that will allow this project of Resolving this Nation into County Jurisdictions, their spirits will be immediatly fancying places to themselves, friends, kindred, &c. for the moddle holds forth a due satisfaction, even to carnal Interests.

The opposition will arise from the great interest of the City of *London*, and the Supream Judicatures; but it is clear, their interest may thus be continued to a just proportion.

Now they ruine Government within themselves, and destroy the whole Nation besides; let them live, but let not *England* perish; for the Lords sake, you that are our Physitians, remember your promis when you undertook the Cure.

Then you stroak'd the wound gently, you asked nothing till the cure were perfected; but our wound is open still, more wayes to discourage the poor impoverished subject then ever.

Take but the many fruitles Acts for poor prisoners into consideration, and the forceing an *Affidavit* of the Engagement, notwithstanding a Certificate, of the Commissioners; can we not easily determine the Reason? it cannot be zeal for Justice, but the Clerks Fee upon the Oath; our hearts are hot in pursuit after the world, while our lips breath forth expressions of the new birth.

Affuredly *Englands* Allarms to War will not cease till the sins cease.

You that are in Authority, like valiant Chieftains, must not onely speak couragioufly, but Act rigorously; you and your just Acts and Ordinances are slighted, and contemned; First, by your selves, our Trustees, they are not duly transmitted to the Counties; then by our selves, your Trustees, they, or some of them deal with them as they list, each one interprets as his interest leads.

Let these things be represented to you, and what is done? nothing.

Nay, come up to *London*, waite and attend till you be weary; the justness of your Caufe gives not the quicker dispatch; yea, I have heard, that some spoken to, to hasten matters agreed on, have been told their haste should cause their tarriance, or words to that effect.

These are sad Symptoms, to such Melancholy spirits as mine, of renewed Judgements; I shall say no more, But leaving the whole Work to the Lord, address my self to seek his face, and pray unto

THe Lord our God, the God of Abraham, Isaac, and Jacob, and of all the faithful, the Almighty Jehovah, the Father of our Lord Jesus, and in him both of Jew and Gentile.

That he will please to open the eyes of all called Christians, and give them hearts to understand his wayes, that they may see and perceive the evil of their doings; that the precipitest professors may see, that from their evil walkings the Enemy takes advantage, and causes many Professors to fall off, vainly thinking all are wholly hypocritical, because of some mens failings; Let those, O Lord, who have some beginnings of resenting their duty to seek thy face, not give any occasion to thy Enemies (the profane-hearted yet among thy people) to transgress with more boldness because of their Liberties.

Tea give the loose Professors to consider, that their evident unchristian walkings cause the open Enemies of our blessed Saviour to blasphem, even Jew and Gentile; for what people walk so contrary to their profession, as the so called Christian?

Father, I pray discover to them that claim to be called thy Clergy, as at least (indeed) set apart for more excellent and eminent services, in Word and Doctrine, that their lives must be the best Interpreter of their words, their conversations of their Exhortations and Perswasions. To Preach Love, and live in Emity; to Preach Obedience and be Refractory, if not Rebellious, is not Christ's way.

O let them all see, even from the highest to the lowest; that its Error evident hath caused Truth to be distrusted, and their words contemned; Righteousness and Truth carry a Majesty which Satan fears: Convince them therefore, that as they have lost the glory of Pastors, by preaching Christ, and pretending for Christ, and following the world, and seeking Self, so they must redeem their ancient honor by signal services.

Let love be even to Enemies, and let the reducing of those that go astray, be with that real sincere affection, as they Preach Saint John did his back-sliding outlaw, given in trust to a Pastor or Bishop.

Let them be Fathers of the Church and brethren in Christ; let them be eyes to the blind, and teachers to them that are slow of heart; let them be diligent and faithful in their places, preaching in season, and out of season, looking at their duty more then the reward; for by the virtual Succession, or publike Designation they own, the charge of the Lord is upon them, and they pluck a wo upon themselves if they preach not the Gospel.

Lord, dispel from their minds the rudiments of the world; the superstitious reasonings of the flesh, and all carnal Ordinances, and give them the Evidence of thy Spirit, that by thy Power they may be instrumental in this our day of high expectation to draw much people to the Lord.

Holy Father, give us Magistrates as of old, men full of wisdom, and of the fear of the Lord, men of courage, and despising riches: let them make Thee their strength, not trusting to their knowledge, knowing that in case of a Kingdom appointed to ruine by God, wise Councils and fair occasions avail not, but are by a secret over-ruling Providence wholly inverted: nor to their courage riches or power for the same reasons.

Let them not undertake War for Ambition, nor as all Christian Princes and States of late have done, engage in Oathes in policy and for stratagems; let their leagues be kept inviolably: the privilege of Nations is above that of private persons: let their Laws be not onely in the letter, but the practise also the Indexes of pure Justice: let their Government be such a sweet mixture of Justice and Mercy, that may declare they seek Reformation, not destruction; the Glory of God, not the benefiting of Self: let them hear before they determine, determine before they execute, and yet execute so, that Righteousness may be preserved free from the scandal not onely of false Justice but also of too late Justice.

Banish from the hearts of all such as thou shalt call to places of Judicature, every affection that is dissonant to the purity of Christian Profession: Let not form destroy the essence of Justice. O Lord, look upon all those that have power, wisdom and riches, whereby being eminent in their Generations, they are rendered useful for thy glory, that they may all of them improve the Talents that they have received, to the end for which they were principally given.

And Father, let thy many promises of building up Sion, sending down the New Jerusalem, settling the people in peace, making them all of one heart and mind, be fulfilled to us in this our day: Many beleive it is the great work of thy

thy Glory, reserved for thy Call of thine own people: Lord hasten that time, shorten the evil dayes for thine Elect's sake, and stir up all hearts in their respective places, so to act, as the vigor of all Christian vertues may be so apparent, that all eyes may see the brightness of thy glory, the perfect image of the Father shining forth in the conversations of the children.

Let all our emulations be holy, tending only to incite and stir up desires of more affectionate duties and services to the eternal Majesty, not seeking after (principally) loose and accustomed liberty, but laying such a due restraint upon all inordinate walkings, that even propension to transgression may be chastised, nay strangled in the heart, before it grows to action. Let the gifts of the mind in our Commonwealth have the first place, then the excellencies of the body, and let those of the world have the last, as the lowest in the Sphear of Christian Politicks.

Let thy Kingdom, even of thy Son the one eternal, immortal, invisible infinite Prince, the Prince of Peace, come; let his Spirit so rule and reign in the hearts of the sons of men, that his will may be so done of us here as it is in heaven, that thou and thy Name may be glorified by all flesh; even so be it, O Lord. Amen, Amen. So prays

CHARLS GEORGE COCK,

Student of Christian Law,

Of the Society of the Inner-Temple,
now resident in Norwich.

FINIS.





Postscript.

As I find this VVork accepted, I shall enlarge.

Isaiah 62. vers. 1.

For Sions sake I will not hold my tongue, and for Ierusalem's sake I will not rest untill the Righteousness thereof break forth as the light, and the salvation thereof be as a burning Lamp.

Vers. 6. and 7.

Ye that are the Lords Remembrancers, keep not silence, and give him no rest, untill he repair and set up Ierusalem the praise of the Earth.

